the weekly
Standard

DECEMBER 16, 1996 $2.95

Suppose there is a Gay Gene ...What then?

by Chandler Burr

Maybe You Should Carry a Handgun
WILLIAM TUCKER

Why Does James Thurber Endure?
ANDREW FERGUSON

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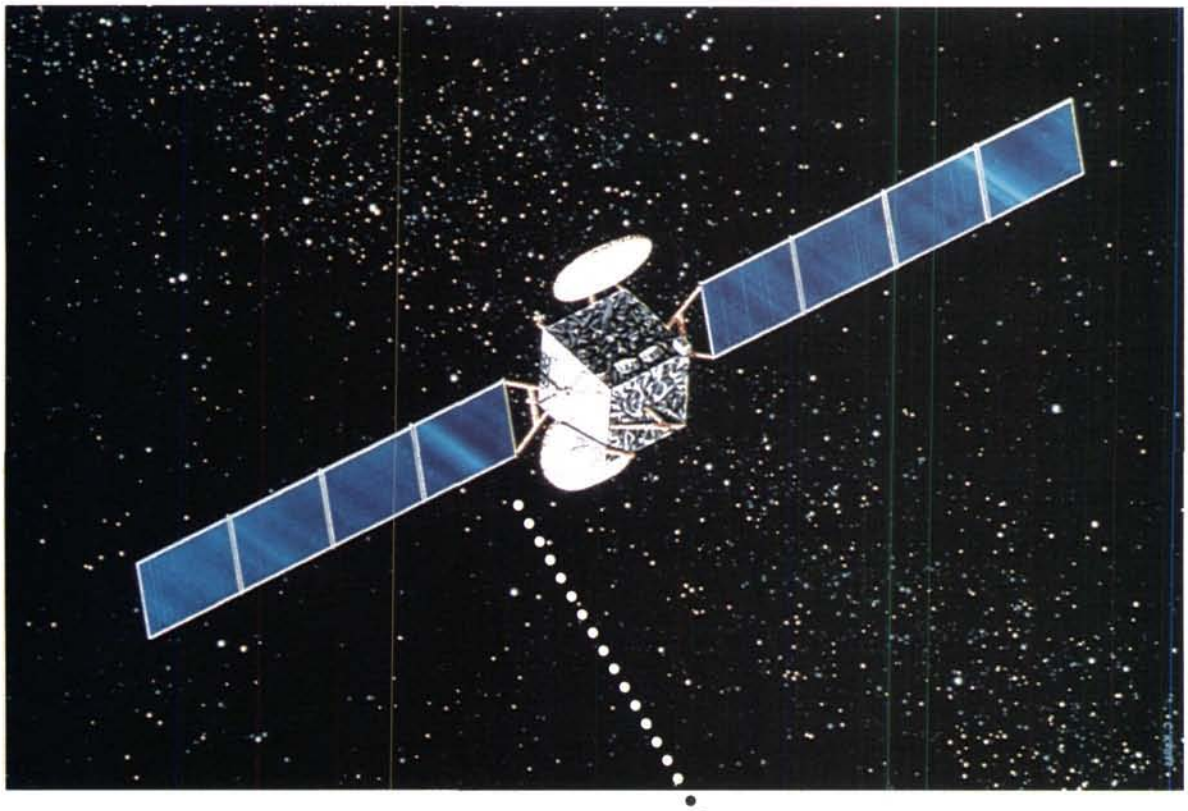
food for thought



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Joan Claybrook, Pig-killer

First as federal traffic-safety czarina for Jimmy Carter, and today as president of the Naderite outfit Public Citizen, Joan Claybrook has spent an entire career accusing automakers of scrimping on safety because it costs money—in other words, of profiting from death and injury. And she is accustomed to playing the hero, particularly on the question of airbags. As recently as last year, Claybrook was still bemoaning to a reporter for the *Washington Monthly* Detroit's failure to "see the human cost of not implementing the airbag."

And what about Detroit's warnings—which have turned out to be spectacularly prescient—that airbags would put children and small adults at risk of serious head injuries or even death? Ordinary people were not supposed to give them credence, since in the Naderite worldview warnings from car companies can only be self-serving nonsense. "Grasping at straws," the *Monthly* article reported, "the car companies . . . even circulated an old film showing pigs being gravely injured by inflating airbags."

That would be film from a 1974 study commissioned by Volvo, "Possible Effects of Airbag Inflation on a Standing Child." Anesthetized baby pigs were placed four to six inches from a dashboard airbag in simulated minor collisions. Twelve percent of the pigs survived without injury. More than half were badly hurt. A third of them died.

And now, of course, Volvo's pig film (like earlier research by General Motors) has been vindicated. As front pages all over the country have reported, passenger-car airbags are killing twice as many children as they save each year. By 2000, after they become standard on all new vehicles manufactured in the United States, airbags are projected to kill children at a rate of one each week.

An occasion for humility and contrition from Joan Claybrook, you would expect. The facts, you might say, have blown up in her face and pinned her to her seat. Her enemies weren't lying, after all. Airbags *are* dangerous. And it turns out she probably knew it all along. So what does she do?

She blames Detroit. "Despite the knowledge of the performance of the air bags they designed, promoted and are selling to the public," Claybrook wrote in an op-ed in the *Washington Post* last week, "the auto companies until now have not explicitly warned occupants with an obvious and unequivocal label on the dashboard."

Those pigs died in vain. Joan Claybrook still doesn't get it.

The O.J.-ization of Everything

Dallas Cowboys defensive lineman Leon Lett has been suspended for a year without pay, after testing positive for cocaine in the last week of November. Lett is best remembered for fumbling his own fumble recovery while strutting into the end zone in the fourth quarter of Dallas's blowout of Buffalo in the 1993 Super Bowl. In a similar fit of ostentation, he took a page out of the O.J. Simpson defense—the garbage-in-garbage-out, cesspool-of-contamination, if-it-doesn't-fit-you-must-acquit page. He argued that he shouldn't be suspended because NFL examiners had broken the "chain of custody" (a Johnnie Cochran-esque defense-lawyering turn of phrase) during the tests of Lett's urine sample. With a straight face, Cowboys owner Jerry Jones denied for days that Lett had tested positive and supported Lett in his complaint. NFL commissioner Paul Tagliabue has wisely rejected the appeal.

Let's see if we get this straight. Lett, Jones, and the Cowboys think that the NFL, like Cochran's LAPD, is little more than a nest of white supremacists on a mission to frame innocent football stars? We look forward to seeing this one in court.

Mighty George at Bat

An unintended consequence of Bill Clinton's decision to pass up George Mitchell, the former Senate majority leader, as secretary of state: Mitchell is likely to be the new baseball commissioner. It's the job he wanted anyway. It pays more. He can travel with his wife. Mitchell has been ready to take the post for years, all the while awaiting a new contract

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between owners and players. Now there is one, but only after a bitter struggle among owners. Mitchell is the choice for commissioner of two bigwigs, acting commissioner Bud Selig and Jerry Reinsdorf, owner of the Chicago White Sox. Trouble is, they don't have the sway they did a year ago, when the odds overwhelmingly favored Mitchell. Some owners want a businessman for the job. Wayne Huizenga, owner of the Florida Marlins, for instance. Huizenga is a pal of George Bush, whose presidency Mitchell gutted. Hmmmm.

U.S. Gamaliel Milhous Clinton

In a private conversation with his toe-sucking consultant Dick Morris, you may recall, President Clinton once played an earnest game of "rank the presidents." The presidency's historical "first tier" was probably out of reach, Clinton decided. But with a strong showing in his second term, he guessed he could still earn a place high in the "second tier."

Well, that second term hasn't even begun yet, and Clinton already seems headed for a different tier entirely. Nixon, Harding, and Grant excepted, no other presidency stinks nearly so bad with scandal.

Consider the latest episode. Clinton appointees have (again) declined to request the appointment of an independent counsel to investigate prima facie evidence of felony campaign fund-raising violations by the Democratic National Committee and former Commerce Department aide and Lippo Group functionary John Huang. Under federal law, such requests are supposed to be triggered by a criminal allegation that would appear to involve the Department of Justice in a conflict of interest. As this one does.

In the absence of an independent counsel, jurisdiction over the Lippo matter falls to Justice's Public Integrity unit. Public Integrity, for its part, ordinarily reports to the acting head of Justice's criminal division, one John Keeney. Keeney's son, John Jr., is John Huang's defense attorney. So any future Lippo investigation will now be supervised further up the Justice food chain.

Who's up there? Justice's number-two official, Jamie Gorelick, wants to replace Janet Reno as attorney general in the second Clinton administration. White House aides don't like Reno; they think she's already appointed too many independent counsels.

Can these people be trusted to find the truth and punish the guilty? Two months have now gone by since John Huang first came to public notice. How many FBI agents have been deployed to interview principals and witnesses in the scandal? Not one. How many documents have Justice investigators requested and secured? Not one. It's amazing what paper-shredding technology can do these days, you know. Don't look back, Gen. Grant. Clinton's gaining on you.

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Casual

Henya

In January 1903, a girl named Henya Woliner was born in the town of Nemirov in the Eastern European territory of Galicia. In December 1996, a woman named Helen Podhoretz died in a hospice in Manhattan. Henya Woliner traveled a long way to become Helen Podhoretz; she was an American for 76 of the 93 years she spent in this world. And yet everything about my grandmother—the rich accent with which she spoke, the clannish way she viewed the world, the overwhelming vitality that kept her alive years after doctors had written her off—marked her forever as a Jew among Jews, lost in 20th-century America.

Time was, it was a recognized fact that ordinary people could have greatness in them. And I don't just mean greatness of soul, like a Tolstoyan peasant; I mean that Molière could come across an illiterate carpenter and see in him the raw genius of a court craftsman. I mean poor and humble folk for whom there was no such thing as ambition because the circumstances under which they lived made ambition purposeless. In our day, however, there are precious few excuses for not "reaching your potential." Now, a poor girl-child like Henya forced to raise her four siblings in the midst of World War I because her cruel father had left for America and stranded his offspring with their hopelessly neurasthenic mother is supposed to become a successful country-and-western singer at the very least.

Like Molière's carpenter, Henya could have done no such thing. She arrived in America at the age of 17 and only four days later met a cousin named Julius Podhoretz. After their marriage, Helen and Julius spent many years living in an American shtetl, a tenement complex that housed a score of relatives. After his death, she spent her last 25 years in an apartment building set aside for elderly Jews, where Yiddish was still spoken as familiarly as English. My grandmother lived within limits that had been drawn for her, and never fought them. In this way she never could become an American.

And yet she had greatness in her. She had the vibrancy of a great actress, the presence of a great political leader, and, most of all, the storytelling skill of a Dickens. This is no exaggeration: She spent her life transmuting her existence into a picaresque masterpiece. She could bring a room of noisy, argumentative Jews to an expectant hush merely by merrily uttering the phrase "Now you must listen to this. . . ."

Now you must listen to this: about Joe the boarder, my grandfather's first cousin and best friend who paid $15 a month for food and lodgings. When Henya was pregnant with my father in 1929, she figured she was going to need the room Joe was occupying, and so she said to him in Yiddish, "Come on, Joe, beat it, scram already." Joe, who fancied himself an American dandy, replied in English, "Like fun I will!" And he stayed. . . .

Now you must listen to this: about Gertie and the milk. My grandmother's sister Gertie had a husband Hymie. Hymie worked at a dairy and was allowed (so they said) to bring home milk and butter and other such stuff. Gertie sold the dairy products to her sisters. They got for cheap, and Gertie got a little money. So one day Gertie is by Henya. Henya takes some butter and her regular carton of milk, and hands Gertie the change she owes her. Gertie fixes Henya with a cool eye and says, "Milk went up a penny." . . .

We buried my grandmother last week. The hearse and the limos and the cars assembled near the funeral home on the Upper West Side to form the procession to the cemetery on Long Island. *You* try making a cortege on the streets of Manhattan; taxis kept intruding on us, separating the procession by traffic lights and right turns. Finally, we made it onto the Triboro Bridge (you haven't seen anything until you've seen a hearse pull into a tollbooth), where we hit a massive traffic jam that completely disassembled the procession—after which the hearse driver began to speed like a madman to make up for lost time.

Somehow, we made it to the cemetery, where we stood, engines running, in the driveway for 20 minutes. Finally, we were led to Henya's final resting place, where a sullen workman gestured us pallbearers onto a path toward the grave. But this path required us to climb over a large pile of dirt, and not only did we get earth in our shoes, we nearly dropped the coffin. Later, after he spoke the prayer called the Burial Kaddish, my father took hold of a shovel to begin the solemn task of consigning his mother to the dust whence she came—and, tripped up by the same dirt pile, took a slapstick gainer to the ground.

It was the last great story involving Henya Woliner Podhoretz, and believe me, she could have told it infinitely better. I can hear her now: *Now you must listen to this, God . . .*

John Podhoretz

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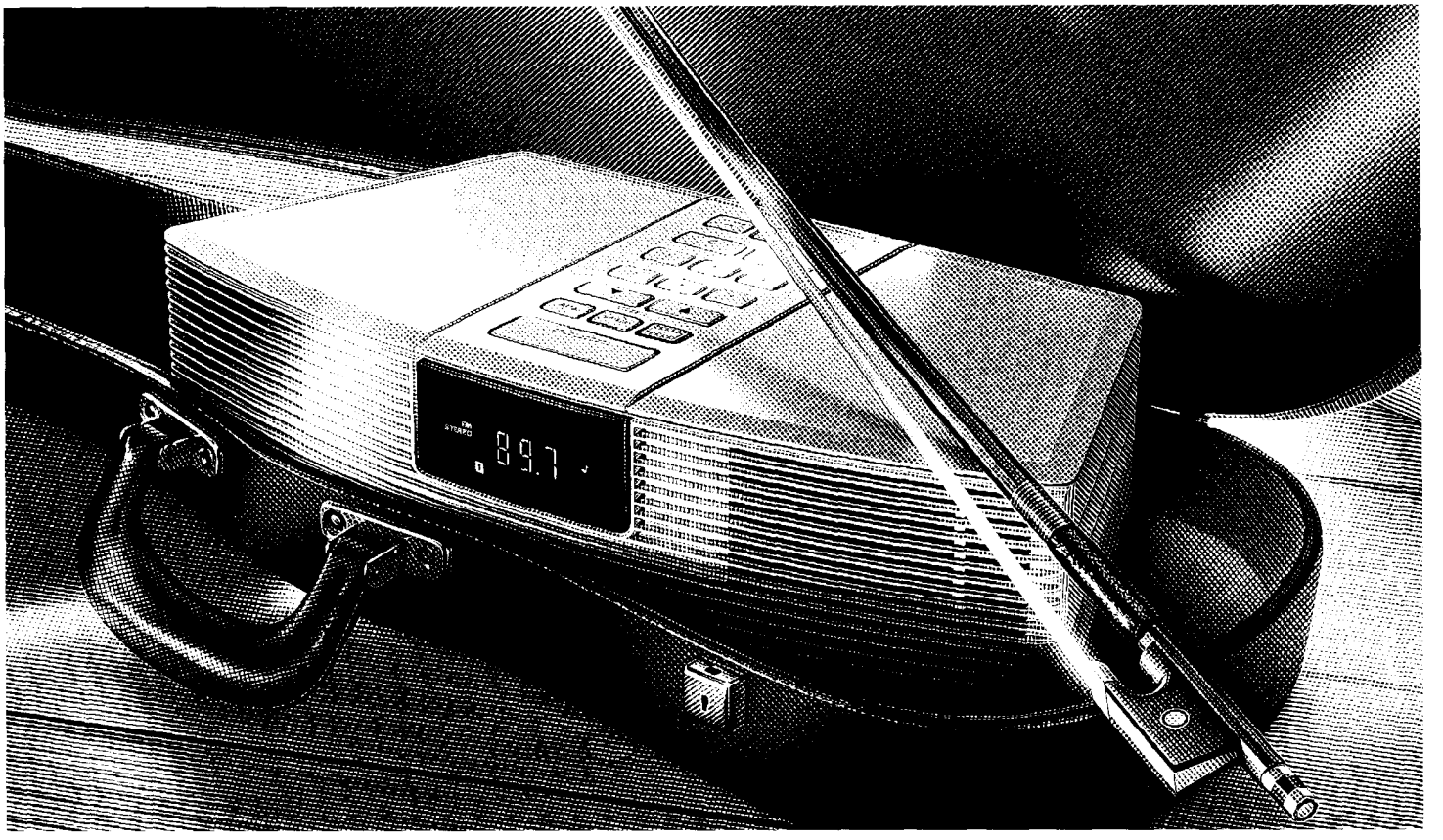

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Doing the Job in Bosnia

When German chancellor Otto von Bismark said, "The Balkans are not worth the bones of a single Pomeranian grenadier," he was expressing a policy President Bill Clinton and The Weekly Standard should ponder ("Doing the Job in Bosnia," Dec. 2). Bismark had no ambitions in the Balkans other than stability and was thus willing to support whatever outcome brought peace. At the Congress of Berlin, the Balkan map was redrawn on these utilitarian grounds.

Unfortunately, this is not how Clinton approached the "congress" of Dayton. Rather than focus on American interests, he embraced his own liberal values as the basis for military intervention. Peace has been restored on the basis of partition along ethnic lines, with the Bosnian Croatians and Serbs allowed a "special relationship" with the nation-states of Croatia and Serbia. So far, so good. But Clinton, with the urging of The Weekly Standard, wants more. He wants to push the hostile factions together in a utopian "single, multi-ethnic state" ruled from the Muslim capital of Sarajevo—the very thing that triggered the three-sided war in the first place.

William R. Hawkins
Washington, D.C.

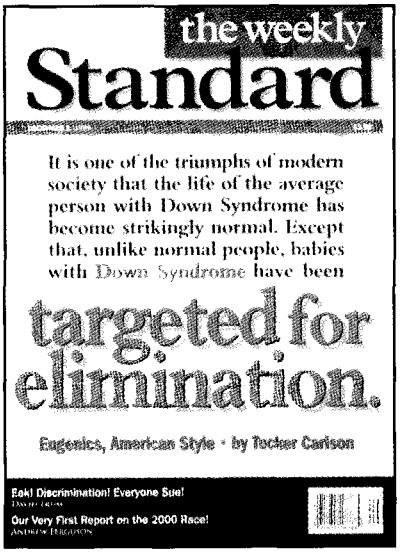
Where did the editors get the idea that [the NATO force known as IFOR] "was given a mandate to arrest Balkan war criminals for prosecution by an international tribunal"?

After it was burnt for trying to do just that in Somalia, the last thing the Clinton administration would agree to is a repetition in Bosnia. Such a mandate was remarkably absent from the military tasks laid out in the Dayton Agreement. As Judge Louise Arbour, the new chief prosecutor of the International War Crimes Tribunal, told the *New Tork Times* last May, "the prime responsibilty for arresting those charged with offenses in Bosnia lies with Balkan leaders who signed the Dayton peace agreement, not with a NATO-led international force."

I would expect the weepy-eyed *New Republic* to obfuscate the issue in the name of a higher cause and to champion "a manhunt for war criminals," but for The Weekly Standard to do so goes against what I thought the magazine was all about.

Col. Harry G. Summers, Jr.
Bowie, MD

The Editors respond: ***True, Balkan signatories to the Dayton accord have always had "prime responsibility" for the arrest of war criminals in their midst. They have been reluctant to exercise that responsibility. It's also true, as Col. Summers points out, that the Clinton administration has been unwilling to pick up the slack, which is why we have news reports of known war criminals passing unmolested through U.S.-manned NATO checkpoints in Bosnia.***



How Col. Summers can so confidently defend such a situation—and deride as "weepy-eyed" those who find it disgusting—isn't clear from his letter. Nor is the truth of NATO's "mandate." NATO forces do have the authority to detain Balkan war criminals and deliver them to the international tribunal—an authority explicity granted them, on paper, in Dayton. It may not be one of NATO's "military tasks," but it's fair to call it a "mandate" just the same.

Down Syndrome Dilemma

Tucker Carlson's poignant report is a wake-up call for America ("Eugenics, American Style," Dec. 2). In spite of our professed religiosity, we disavow the commandment, "Thou shalt not kill." Carlson's piece gives substance to the idea that we mere human beings continue to replace God's will with our own.

Carlson is correct when he writes, "Children with Down Syndrome are . . . uncommonly gentle human beings." These children are, from personal experience, very loving, gentle, trusting human beings. Perhaps the Creator has placed them in our midst purposefully, to spread the humanity that our society has otherwise lost.

Nancy Jancourtz
Eastchester, NY

A married woman of my acquaintance in her early forties decided to have one more child. She got pregnant and, given her age, had an amniocentesis. Sure enough, she was carrying a Down Syndrome fetus. She promptly had an abortion and shortly thereafter became pregnant again. This time the test came back negative, she finished the pregnancy, and she now has a normal, happy toddler. Perhaps I am morally challenged and should be read out of conservative ranks, but I cannot fault her. The child who lives has a much longer life expectancy and much brighter life prospects than the child who might have lived. And, frankly, the life prospects of the parents are a good deal brighter too.

Reading Carlson's article, I was reminded of perhaps the most cynical statement I have ever heard about human nature: We all have the strength to bear the misfortunes of others.

John M. Levy
Blacksburg, VA

The Spy-Ring Scoop

Regarding Robert L. Beisner's "Dean Acheson's Alger Hiss" (Dec. 2): Exactly where and when did J. Edgar Hoover charge that Dean Acheson, John J. McCloy, Henry Wallace, "and other estimables were part of 'an enormous Soviet espionage ring in Washington'"?

William A. Rusher
San Francisco, CA

Robert L. Beisner responds: ***J. Edgar Hoover made his accusation, cit-***

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ing an "informant," against Dean Acheson, John J. McCloy, Henry Wallace, and others (including Alger Hiss) on May 29, 1946, in a confidential memo to his friend and director of the Reconstruction Finance Corporation George E. Allen.

SAVIO: A NOBLE LEFTIST

Confronted with the death of Mario Savio, a man of uncommon integrity, eloquence, and modesty, Matt Labash ("Mario Savio's Legacy," Nov. 25) had to scramble hard before coming up with the obligatory cheap shot: Savio's "legacy" was the degradation (which "he could not have envisioned") by subsequent leftists of the ideals he stood for—regardless of his lifelong opposition to such degradation.

Far from working to throw out "old bores like Plato and Aquinas," Savio and then Free Speech Movement leaders wanted to make those authors' ideas relevant to contemporary society. FSM leaders protested the degradation of Thomas Jefferson's model of schooling for critical citizenship into the modern American university, a bordello-like football factory, frat-house playpen, and trade school at the expense of undergraduate liberal-arts education.

Without disputing Labash's or other conservatives' accounts of post-FSM corruptions of New Left causes, one can still ask whether those have been any more a debasement of humanist education than the above functions of the service-station university.

DONALD LAZERE
BALTIMORE, MD

SPEAKING FRANKS-LY

I must say, with regard to your item on Gary Franks (Scrapbook, Dec. 2), that I find it difficult to sympathize with him for the treatment he received at the hands of the Congressional Black Caucus. Their philosophies and approaches are so different, he should not have joined the caucus in the first place. And after he joined, he was treated so badly, only a fool would have continued to take it. Franks should know that black persons who dare to depart from the tunnel-vision views of the Establishment are considered Uncle Toms, or worse.

Reflect on Clarence Thomas. If you are black and supportive of the Republican philosophy, you are made out to be in league with the devil. Look, if you don't like raw fish, stay out of sushi bars. Those of us who have the courage to stand up for Republican principles will, in the long run, be better off for it.

LEWIS H. HAMMOND
LOUISVILLE, KY

A NOTE ON PULITZER BAIT

A brief reply to your recent hatchet job on the *Philadelphia Inquirer* and the economic series "America: Who Stole the Dream?"("Pulitzer Bait in Philly," Oct. 14) :

a. Your motivation is obvious: Discredit the series by Donald L. Barlett and James B. Steele without addressing their conclusions. Your article is an ideologically motivated smear posing as a critique.

b. You cite one paper that decided not to run the series, conveniently overlooking the three dozen that did run it. Thus, you resort to distortion to make your point.

c. You cite the journalists who left the *Inquirer* for the *New York Times*, neglecting to mention the dozen-plus who turned the *Times* down. Nor do you mention editors who've recently joined the *Inquirer* from the *Times* or the *Washington Post*: assistant to the executive editor Peter Kaufman and associate managing editor/metro editor Philip Dixon.

d. You dredge up every recent controversy involving the *Inquirer* as if controversy per se were a sign that a publication was doing something wrong. If you think that, why is your own publication plunged repeatedly into controversy?

e. You claim that "the brass" at the *Inquirer* doesn't back the series, offering only an interview with an assistant editorial page editor, and the quote itself does not support your claim. Ridiculous. The paper backs the series 100 percent, and your inability to deal with the conclusions of the series stiffens that support.

f. Finally, your criticism of Barlett and Steele's series as political correctness is preposterous. Finding against free trade and open immigration—long enthusiastically supported by liberals—is the opposite of political correctness.

MAXWELL KING
EDITOR AND
EXECUTIVE VICE PRESIDENT
THE *PHILADELPHIA INQUIRER*

CHRISTOPHER CALDWELL RESPONDS: ***Not a single one of King's quibbles concerns a factual matter. But to take the points one by one:***

a) My motivation was to describe. If a fair description discredits the series, that is the* Inquirer*'s fault, not mine.

b) The incident I referred to—the* Seattle Times*'s decision to discontinue and repudiate the series after running one installment—is surely newsworthy. In my experience with newspapers, it is unprecedented.

c) I named seven journalists who had left the* Inquirer *for the* Times*. Until I see a similar level of detail on King's part, I'll assume the number of those who "turned the* Times *down" is considerably lower than he claims.

d) What a remarkable philosophy for a newspaper editor! I report controversy because it is newsworthy. So do many dozens of King's employees.

e) My conclusion was based on several interviews. But why should my "inability to deal with the conclusions of the series" affect the staff's feeling on the matter one way or another? Is King implying there is some kind of dissent-quashing public-relations offensive going on inside the paper?

f) I never accused Barlett and Steele of political correctness. My only accusation of political correctness was directed at the* Inquirer *on King's watch.

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the weekly Standard

It's Time to Take On the Judges

In every time of crisis there is an opportunity—an opportunity to change perceptions, to alter dynamics, to shift the balance of power. We are in just such a time of crisis, and it is fitting to recognize and act on the opportunity. The crisis is the brazen interference of the judicial branch of government in the decision-making authority of the American electorate. The opportunity is to change public perceptions of the courts, to alter the dynamic between the courts and American society, and to shift the balance of political power back where it belongs, to elected officials and the American people.

The crisis is real. The other week a judge in California—a man, remember, with only one vote in any election—suspended the implementation of the California Civil Rights Initiative. CCRI received 4.7 million votes. The judge, whose astonishing record is revealed by Matthew Rees on page 10, denied the will of the people until there could be a formal hearing this week—and did so by making the Orwellian argument that the denial of *preferences* to blacks and women is a violation of their right to *equality*.

In doing so, he was following another California court ruling that put on hold 1994's anti-immigration initiative, Proposition 187, which received 5 million votes. Now, we are not fans of Prop. 187, and were we voters in California, we might well have voted against it. But we are not, and again, the judge who blocked 187 has only *one* vote.

The assault on popular will has gone farther than this. Two years ago, a court in Colorado voided the state's Amendment 2, which received 814,000 votes. Amendment 2 barred localities in Colorado from granting homosexuals special status, and this, the Colorado court ruled, was a violation of the Fourteenth Amendment. The U.S. Supreme Court agreed in the now-notorious *Romer* v. *Evans* decision, one of the worst and most illogical since *Roe* v. *Wade*, in which Justice Kennedy explained that Amendment 2 was unconstitutional because voters had acted out of "animus"—though the only evidence of animus was that Coloradans did not want homosexuals to have *special* rights. And in any case, where in the Constitution is "animus" condemned? Laws are enacted out of animus all the time; does this mean they are all illegitimate?

Judicial usurpation of legislative authority is an old story. What is new here is the apparent willingness of courts nationwide to block the direct expression of popular will in elections. To consider how radical a step this is, imagine a court ruling that a candidate who won an election could not be sworn into office because his policies were based on "animus." That could never happen, presumably, because the politician and his party would cry murder. But a referendum must speak for itself, and the mere fact that millions of votes were cast in its favor does not give it a voice loud enough to still these judges.

It is, of course, part of our tradition that courts determine whether a piece of legislation is constitutional. But a law is, and should be, a law until such a ruling is handed down. That is what is so mind-boggling about the California judges and the two referenda they have blocked; these judges have, in essence, preemptively treated two laws as unconstitutional before that determination has been made. And by doing so, they have cast the law into limbo. For, like Prop. 187, CCRI will probably be blocked indefinitely. The formal hearing ordered up for December 16 will doubtless be followed by a preliminary injunction and then by a trial that is likely to last a full year. These are not cases in which a judge merely delayed the implementation of a measure for a few weeks. These are cases in which judges are using procedure and procedure alone to void legislation.

That sort of thing should not happen, especially in cases of referenda, even if the judges want it to. There is such a thing as "judicial discretion," which has no legal standing but does have moral standing. Judicial discretion requires any judge to take very seriously an action that would reverse the will of the people as expressed in law—to bend over backwards, in fact, to avoid making such a determination. That is what government by "consent of the governed" implies.

Three decades of judicial activism have led to this pass. Such troubles have led some of our conservative

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brethren to despair, to question whether the American regime has lost its legitimacy. It has not; indeed, one of the reasons that this judicial usurpation has gotten so parlous is that few serious and sustained efforts have been made to reverse it in the realm of politics. Some scattered efforts have been remarkably successful. Take the recent case of Judge Harold Baer in New York. He allowed a confessed drug dealer to go free because he said the police had arrested her for racist reasons. From Mayor Rudy Giuliani to Gov. George Pataki to Republican senators to the president himself, Baer was condemned and threatened with impeachment—and he reversed himself.

The pressure doesn't even have to be that direct. Twenty-five years ago, a nationwide revolt forced the Supreme Court to reverse its movement toward a ban on capital punishment—a hilarious "interpretation" of the Constitution, since capital punishment is mentioned there by name. Similarly, the court was heading toward granting an almost unconditional First Amendment right to produce, distribute, and sell pornography, and a similar popular outcry somehow made the court pull back and allow states and localities to impose and enforce at least some restrictions.

True, there have been failures—the failure to overturn *Roe* v. *Wade* and its progeny, the failure to restore prayer in schools, and the ruling against term limits. But the model still stands. It is time to ignite a popular outcry against unelected officials and their efforts to invalidate the results of elections. The virtue of this argument as a political issue is obvious. Conservative politicians have long made hay with the claim that they would appoint tough-on-crime judges who would strictly interpret the Constitution. Now there can be a new rallying cry: Republicans will oppose the nomination and confirmation of any judge who does not agree to abide by the will of the people except in extraordinary circumstances—except when that will is *genuinely* unconstitutional.

And a presidential candidate looking for a powerful issue in 2000 might well look here, and might consider a radical proposal such as term limits for federal judges. Actually, it's not such a radical proposal. The original debates on the Constitution explain why federal judges were granted lifetime tenure: The judicial branch of government was the least dangerous, had a limited role, did not make policy, and served almost exclusively as a *check* on policymakers. Because of these limits, it was proper to isolate the courts from popular pressure; such isolation seemed to pose no dangers. This argument is outdated in the modern bureaucratic state. The judicial branch has, unfortunately, become a political actor. Thus there is reason to consider whether it should be accountable, whether it shouldn't be subject to the same ultimate check as all other political actors: the loss of power.

By thoughtful consideration of proposals like judicial term limits, and through the steady publicizing of judicial outrages, populist ire can be tended, harnessed, guided, and used to bring judges to heel—thereby helping to restore true constitutional government. But there also need to be more limited approaches. We are speaking of precise and incremental reforms, such as the Prison Litigation Reform Act of 1996, proposed by Sen. Spencer Abraham of Michigan. The act, which is now law, tries to end judicial micromanagement of prisons, making sure that judges no longer use a single inmate's case to assert broad authority over the size of prison cells, the number of criminals who can be incarcerated at any given institution, and the like. That kind of judicial intervention has been a nightmare for governors and mayors who find themselves unable to explain to furious voters why bad guys are not brought to justice; after all, what kind of explanation is, "Well, there's this judge who says we can only house 1,100 people in that prison, so it's full."

Following that model, Congress can enact other laws that limit court jurisdiction and introduce other reforms of a technical nature. Not only will such legislation make the criminal-justice system work better, but it will send a powerful message to the judicial branch of government. The message: The political system will fight back against the judicial assertion of authority over matters that are rightly decided in the voting booth and in legislative bodies—and not by a man dressed in a robe, sitting in a high chair, banging a gavel. ♦

The Judge Who Hates CCRI

by Matthew Rees

At his Senate confirmation hearing for a federal judgeship in June 1980, Thelton E. Henderson promised to recuse himself "for some period of time" from cases involving groups he had belonged to, notably the American Civil Liberties Union and an organization called Equal Rights Advocates. But that was then. When those two groups, along with others, challenged the

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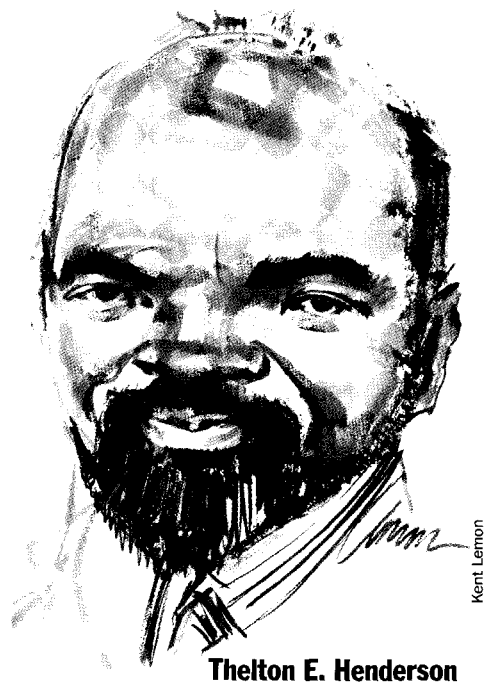
constitutionality of the California Civil Rights Initiative (CCRI), the initiative newly banning the state's use of racial preferences, Henderson chose to hear the case. Indeed, he exploited his position as chief judge of the U.S. District Court in San Francisco to snatch the case away from the judge to whom it had been assigned, on the flimsy ground that he already had jurisdiction over a related matter. This cleared the way for him to rule, on November 27, that there is a "strong probability" that CCRI violates the equal protection clause of the Fourteenth Amendment.

Neither Henderson's breathtaking activism nor his questionable judicial ethics comes as a surprise. During the 16 years since Jimmy Carter named him to the bench, he has been a loyal ally to litigious liberal forces in his district. In the current instance, he went against the wishes of the state attorney general's office and brushed aside that other judge, conservative Bush appointee Vaughn Walker, to guarantee that CCRI would not be implemented.

To those familiar with his career, Henderson's tactics and rulings were predictable. In addition to once serving on the boards of Equal Rights Advocates and the ACLU, he was until April 1992 on the board of a left-wing Berkeley outfit called the Meiklejohn Civil Liberties Institute, which has described itself as "a unique center for peace law and human rights." He has ruled against numerous challenges to minority set-aside programs, declaring in December 1992 that a Bay Area mass transit agency's race-based contracting served a "compelling state interest" and therefore should continue. And, beyond race, his rulings over the last decade reflexively support the usual liberal suspects, including prisoners, women, the overweight, homosexuals, dolphins, and squirrels. Thus, when the advocacy groups went shopping for a judge to hear their challenge to CCRI, they naturally chose Henderson.

His anachronistic approach to race-based litigation will cause abundant problems for CCRI proponents in coming months. He will hold another hearing on December 16 on a preliminary injunction and is expected to grant it. The problem, says Robert Corry, an attorney at the Pacific Legal Foundation in Sacramento and a pro-CCRI litigant, is Henderson's Orwellian reading of the Fourteenth Amendment. "His interpretation of the equal protection clause mandates unequal protection," says Corry. Indeed, Henderson says he opposes CCRI because its implementation would result in "an immediate possibility of irreparable harm" to women and racial minorities. The same logic would have sunk the 1964 Civil Rights Act, which, by opening up opportunities to blacks, inevitably entailed displacing a few whites.

Henderson's sympathy for government-mandated racial preferences is likely a function of his own experience with racial discrimination. Born in 1933, he was raised in segregated Louisiana. He attended the University of California at Berkeley and its Boalt Hall School of Law and in 1962 joined Robert F. Kennedy's civil rights crusade as an attorney in the Justice Department. He worked on voting rights cases in Mississippi, Louisiana, and Alabama. It was a chance encounter with Martin Luther King, Jr. in Selma that resulted in Henderson's leaving the department.


Kent Lemon

Thelton E. Henderson

According to a profile in the *Los Angeles Daily Journal*, as King was preparing to leave his hotel one day in October 1963, Henderson arrived. Seeing King's car in disrepair, Henderson lent King his rental. But while King was using the car, aides to Gov. George Wallace discovered it belonged to a federal employee. Taylor Branch's *Parting the Waters* notes that "Wallace angrily denounced the federal government for subsidizing King's conspiracy against state laws." Embarrassed by the incident, Henderson resigned. This episode is hardly a stain on his record, but it helps explain why 33 years later he still places great faith in the federal government—and little trust in people—to promote racial equality.

As for his judicial philosophy, Henderson told the *Daily Journal* in 1983: "I see my role as to interpret the law and rule on the merits and inject as little of my personal philosophy and biases as possible." But the CCRI ruling is not the only example of his failure to abide by this ethic. The most noteworthy is undoubtedly his campaign on behalf of convicted murderer Johnny Spain. Spain was an inmate at California's maximum-security prison, San Quentin, at the time of the August 1971 riot that left two guards dead. Spain's involvement in the "uprising"—he was an associate of black revolutionary George Jackson and a leader in the Black Panther prison movement—led to a new mur-

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der conviction in 1976. But the conviction was appealed, and in 1982 Henderson overturned it, ruling that Spain had not received a fair trial. A retrial was scheduled, but before it began the U.S. Supreme Court reversed Henderson's decision.

But that wasn't the end of Henderson's efforts on Spain's behalf. Spain appealed the San Quentin murder conviction once more, claiming he had been denied a fair trial owing to his being shackled during court appearances. In September 1986, Henderson again ruled in Spain's favor, writing that the defendant was "so preoccupied by the chains that he was unable to cooperate with his attorney during the trial." That remarkable conclusion was followed by Henderson's demand that the state parole board review whether Spain, serving time at that point only for a 1966 murder, should be freed. After the board twice denied parole, his lawyer filed another appeal with Henderson, who again ruled in Spain's favor. In the end, a Los Angeles Superior Court judge ruled in March 1988 that Spain had served enough time for the original murder, and he was freed. Appropriately, it was Henderson who ordered him released on $350,000 bail.

Henderson has issued other equally dubious decisions. In a case against State Farm Insurance Co., found guilty of sex discrimination in April 1985, he approved a consent decree mandating that at least 50 percent of all new agents hired by State Farm for ten years be women. In 1987 he ordered the now-defunct Pan Am to end its policy dictating a maximum allowable weight for flight attendants, resulting in a $2.35 million settlement. In January 1992 he ordered new restrictions on imports of yellowfin tuna from countries doing business with countries using "dolphin-killer" fishing nets. In January 1995 he ordered California's Department of Corrections to amend some of its practices at the maximum-security Pelican Bay prison, saying they constituted cruel and unusual punishment. And just this year he ruled against a new federal law accelerating court reviews of death penalty appeals and held a press conference to encourage lawyers to bring forward bias complaints.

What are the chances that Henderson will come to see the merit of CCRI any time soon? In a May 1982 speech at the law school of Cleveland State University, he noted that "cures for civil rights deprivations are rarely achieved in a short period of time. . . . Before society recognizes and remedies inequities, at least two or three decades must pass. . . . Of course, the passage of time alone does not result in the recognition of the wrong, but it does seem essential in convincing a mass of people that an injustice exists and must be corrected." With 54 percent of Californians having voted in favor of CCRI, the "mass of people" has spoken. But the message from Henderson is unmistakable: Californians shouldn't expect CCRI to get a sympathetic hearing in his courtroom until well into the 21st century. ♦

SPRINGTIME FOR CHI

by Michael A. Ledeen

IN KEEPING WITH THE SPIRIT of appeasement that characterizes Bill Clinton's dealings with the world's leading tyrants, the United States is currently hosting the murderous defense minister of the People's Republic of China, Gen. Chi Haotian. Gen. Chi's infamy was most dramatically earned in 1989, when he commanded the bloody repression of China's short-lived democracy movement in Tiananmen Square; it was reinforced last March on the occasion of the democratic elections in Taiwan, when he mobilized the PRC's armed forces and ordered cruise missiles launched through the China Straits. His long career—he signed up to fight the Japanese in 1944, at the age of 15—is a textbook study of advancement in a Communist regime. Chi demonstrated both military valor (he earned medals fighting us Americans in the Korean War) and political opportunism (he quickly enlisted in the horrors of the Cultural Revolution, then rapidly switched sides to participate in the arrest of the "Gang of Four" in 1976). He has always rallied to the side of terror and has been unstinting in his condemnation of "the U.S. hegemonists."

This proven enemy of the values we hold dear is receiving full military honors from secretary of defense William Perry at the Pentagon, holding extensive meetings on Capitol Hill, visiting military bases and top-of-the-line industrial facilities, and addressing the troops at West Point. A rumored meeting with President Clinton is unconfirmed at this writing, but a formal White House reception is hardly necessary to prove the obvious: Clinton is embracing the Chinese. As always when tyrants are appeased, annoying truths have to be ignored, and the unpleasant facts about Gen. Chi have conveniently dropped out of the official (unclassified) CIA biography, dated October 28 of this year. There is no word about the massacre of the democrats in Tiananmen, no mention of the bullying

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of democratic Taiwan. The final fillip came from outgoing secretary of state Warren Christopher. Speaking in Shanghai in late November, he invoked our "common hopes and interests." As Arnold Beichman of the Hoover Institution sadly remarked, it brings back memories of Christopher's mentor, Cyrus Vance, who once gushed that Soviet dictator Leonid Brezhnev "shares our dreams and aspirations."

Sean Delonas

Chi's visit is the first in an announced series of meetings and summits—culminating in China trips by Gore and Clinton and a Washington visit from Chinese dictator Jiang Zemin—that recalls the worst moments of détente. Just as we bestowed superpower status on the aggressively militarizing Soviet Union in the 1970s, so we elevate the People's Republic today. And just as we opened the floodgates of American technology to the Soviets, thereby enabling them to achieve a quantum leap in military power that required a massive Western buildup to contain, so today we are selling China some of our most sensitive technology, and at bargain-basement prices. We have recently permitted the PRC to obtain the technology to manufacture its own Global Positioning System, which is the key to the most accurate targeting systems for cruise missiles and other advanced weapons. We have permitted the Chinese to buy technology used to build "stealth" aircraft, and we are permitting them to buy, at auction, entire defense factories, until very recently used to manufacture state-of-the-art military components, from advanced lasers to exotic missile skins. As Stephen Bryen, former director of the Defense Technology Security Agency, revealed in congressional testimony earlier this year, we have changed the rules to permit the Chinese to buy "hot section technology" for jet engines, which will enable them to vastly improve their attack helicopters and fighter aircraft. Previously, this technology was unavailable even to some of our NATO allies because of its sensitivity. But in the era of super-détente, nothing is too good for the People's Republic.

Gen. Chi knows all about these developments, for he is in the forefront of the crash program to modernize China's armed forces. On the eve of his visit, the *New York Times* ran a soothing account of the Chinese military's lack of modern technology, as if to reassure us that we have nothing to fear from such old-fashioned forces. Not to worry: If the Clinton administration continues its current campaign, that happy state of affairs will soon change, and we will have to reckon with the world's largest nation, armed with the best weapons the United States can provide, under the command of the brutal man now showered with the kind of honor and largesse that should be reserved for our best friends and reliable allies.

Michael A. Ledeen holds the Freedom Chair at the American Enterprise Institute and is the author of **Freedom Betrayed.**

Erskine Bowles 'em Over

by Fred Barnes

Erskine Bowles, the new White House chief of staff, made only one mistake when he trekked to Capitol Hill on December 5 to woo two dozen moderate House Republicans, and it was a small one. He and John Hilley, the White House congressional lobbyist, referred to the "Kennedy-Kassebaum" health-care bill passed last summer. That rubbed Rep. Bill Thomas of California the wrong way. Thomas insisted it's the "Kassebaum-Kennedy" bill: The name of the majority-party sponsor, GOP senator Nancy Kassebaum of Kansas, comes first, not Teddy Kennedy's. Aside from that, everything Bowles said went over swimmingly. He's pro-business and bent on balancing the federal budget, Bowles insisted. He's an honest broker—just ask North Carolina Republicans like former congressman Alex McMillan, whose campaign Bowles backed financially, and Sen. Jesse Helms, who grew up with Bowles's father. "I keep my word," Bowles said. "I'm going to be open and honest.

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I'm going to return your phone calls."

Love-bombing of Republicans by the Clinton White House is not entirely a new phenomenon. And it's not a reliable indicator of real bipartisan sentiments at the White House either. The president courted Republicans in seeking NAFTA ratification in 1993 and even made a few conciliatory gestures during the health care struggle in 1994. But bipartisanship was not sustainable. Clinton governed at the mercy of congressional Democrats, and they weren't interested in dealing with Republicans.

Now, in Clinton's second term, bipartisanship has a second chance. For what it's worth—and I'm not holding my breath—that's bipartisanship that works chiefly off a conservative agenda. "Things have changed [at the White House]," a senior Clinton aide notes. Bowles's pitch to Republicans "reflects where the president's head is." Another adviser adds: "The one thing Clinton knows for sure is he's for working it out [with Republicans], not fighting it out." Better yet, the president is said to accept the necessity of governing through a center-right coalition. Given the two top items on Clinton's agenda—balancing the budget and figuring out how to curb entitlements—that probably can't be avoided anyway.

"There's really a good word for describing that agenda, besides New Democrat—it's Republican," a White House official confesses, without embarrassment. True, Clinton wants other things—a rollback of parts of the welfare reform bill, more education spending—that liberal Democrats relish. But those are secondary, at least for now. Clinton is eager to revive the spirit of last summer, when he and Republicans agreed on a welfare bill and Kassebaum-Kennedy and added tax breaks for small business to the hike in the minimum wage.

Still skeptical? "Watch what the president does," says an aide. "Watch what he says." Yes, Clinton has said the right things about compromising with Republicans, rather than using them as a foil again. "It is time to put country ahead of party," he said in Little Rock on election night. The voters "are sending up a message: Work together, meet our challenges, put aside the politics of division, and build America's community together." At his press conference on November 8, Clinton declared he's tried to "make it clear that we understand the American people want us to work together with the Republicans and that we have to build a vital center." With Clinton, however, words are often political tools, unrelated to his true intentions.

Clinton's actions speak louder. The liberal axis at the White House—chief of staff Leon Panetta, deputy Harold Ickes, and George Stephanopoulos—is gone. Bowles, an investment banker by trade, is far more conservative than Panetta. Communications director Don Baer, another moderate voice around Clinton, is staying. So is press secretary Mike McCurry, a closet New Democrat. (Another strong moderate at the White House, Bill Curry, is returning in January to Connecticut, where he'll probably run for governor in 1998.) Clinton's selection of a new foreign policy team shows some concern for Republican sen-

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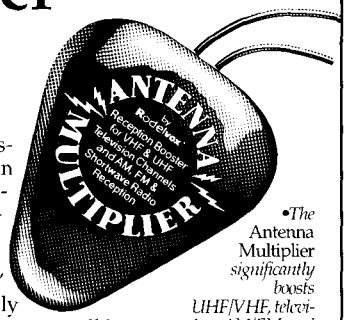

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sibilities. He abandoned his first choice for secretary of state, George Mitchell, at least partly because Republicans loathe him. Many Republicans, notably Senate Foreign Relations chairman Jesse Helms, preferred Madeleine Albright, whom Clinton named. She, after all, has been pursuing, as United Nations ambassador, the GOP-instigated effort to force out secretary general Boutros Boutros-Ghali. And while former senator Bill Cohen of Maine, picked for defense secretary, is no favorite of conservatives, he *is* a Republican.

Despite the good vibes, serious impediments to a Clinton-GOP détente remain. Some White House advisers feel conservative Republicans hate Clinton and thus aren't ready to do business. Congressional Republicans need to show "a somewhat less adolescent attitude," an aide says. "Our biggest problem will not be getting Democrats but getting conservative Republicans." If they push social issues, especially another ban on partial-birth abortion, that "would not set us in the right direction," another Clinton adviser warns.

The biggest obstacle, from the White House viewpoint, is Republican hearings on Indogate and other Clinton scandals. "If they decide to go full bore, we'll wind up with an atmosphere that's very bitter," says a Clinton aide. "It's a huge test," the aide insists, of the GOP's desire for bipartisanship. The president makes the same case. Should Republicans go easy on investigations, he said on November 8, "the American people will be very well pleased by the work we do together, and we will get a lot done." This is pretty cynical stuff, an attempt by Clinton to exploit the mood of bipartisanship to curb scandal hearings, which terrify the White House. It won't work.

My guess is liberal Democrats, docile in 1996, will be a bigger problem than Clinton and his aides acknowledge. The president is famously susceptible to pressure, and liberals are bound to exert a lot. Clinton, for instance, doesn't want to mount an aggressive drive to defeat the balanced budget amendment. But Treasury Secretary Robert Rubin and Gene Sperling, the White House economics adviser, do. And they may yet prevail. Democrats on Capitol Hill also may prevent Clinton from moving sharply toward Republicans on Medicare, tax cuts, and other issues.

For sure, the president is wary of irritating congressional Democrats by apologizing to Republicans for his exaggerated attacks on their plans for Medicare reform. "You will not see the president in the Oval Office wearing sackcloth," an aide says. One reason is Clinton doesn't think he said anything out of line about the GOP and Medicare. The larger reason is he doesn't want to side openly with Republicans on the main campaign issue invoked by Democrats this fall.

Among Clinton's advisers, there's a known and an unknown on the question of compromising with Republicans. The known is Bowles: He wants to. His appeal to Republicans was "encouraging," says GOP congressman Fred Upton, who hosted the Bowles appearance. The unknown is Vice President Al Gore. If liberals are angry at the White House, that won't help him win the Democratic presidential nomination in 2000. Watch Gore to see how far bipartisanship is likely to go at the Clinton White House, a Clinton aide suggests. Good advice for Republicans. ♦

HILLARY'S MODEL VILLAGE

by Ari Redbord

According to Hillary Rodham Clinton (and, reputedly, the elders of Ghana), it takes a village to raise a child. And while she never gives a precise definition of such a community in her best-selling *It Takes a Village*, she does provide a model.

She takes us on a "journey" to the Abecedarian Project in Chapel Hill, North Carolina, where Dr. Craig Ramey "gathered together a group of more than one hundred newborns" for the purpose of shaping these children and increasing their IQ scores. The results of the experiment—which carries a price tag of $10,000 per child annually—have been used by psychologists and welfare wonks to justify massive governmental intervention.

The project began in the early 1970s, when Ramey and his associates identified pregnant women whose children were considered at "high risk for retardation" owing to such environmental indicators as poverty, unemployment, illegitimacy, and race. (Ninety-eight percent of the children were black.) The premise behind the selection, according to Ramey, was that mild retardation in underprivileged children "is more associated with sociocultural factors than any organic deficit."

When the children were between one and six months of age, they were divided into a control group and an experimental cohort. Both groups received medical and child-care services, but the experimentals entered an intensive day-care program for eight to ten hours a day, five days a week, with a teacher-to-child ratio of 1 to 3. This continued until they turned five.

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They also received optimal nutrition and "as much health care as any group in history," according to Ron Haskins, who was associated with the program in the late '70s and is now chief welfare specialist for the House Republicans.

The results seemed auspicious at first. As Mrs. Clinton explains, "By the time the children were three years old, the children in the experimental group averaged 17 points higher on IQ tests than the children in the control group, 101 versus 84." After three years of schooling, only 13 percent of the experimentals had an IQ under 85, as opposed to 44 percent of the controlled children.

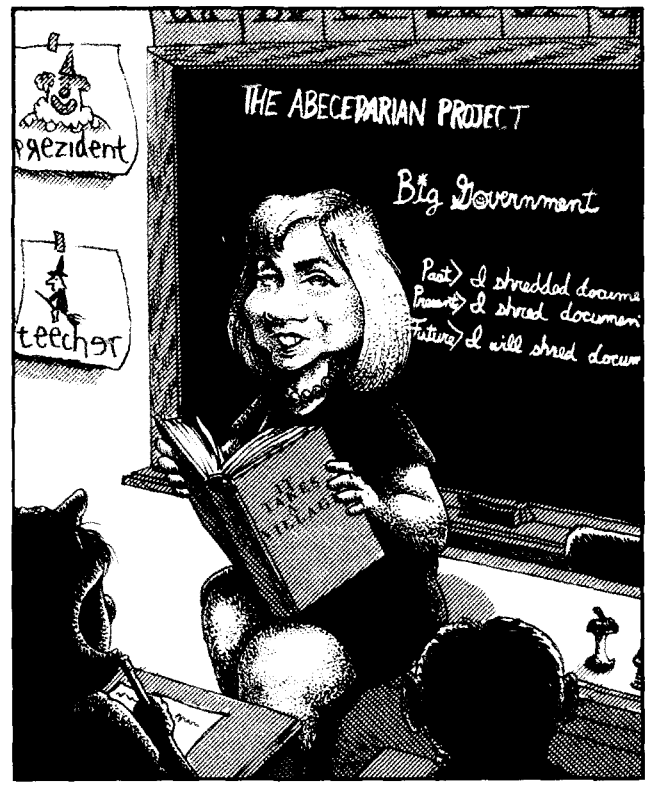
These facts are not widely disputed. Charles Murray, the famous sociologist and a critic of the project, lauds the efforts of Ramey and his staff, believing that the Abecedarian Project "serves as a way of defining the outer limit of what day care can accomplish given the current state of the art."

But the project is looked to by many in the public-policy community for far more than an outer limit. In an article published in *American Psychologist*, Ramey proposes a model that "could be used to deliver many services," the purpose of which would be "to monitor the physical and mental health of this country's children and to provide remedial services." "The major premise on which the model . . . rests is that a truly effective delivery system will have to have a national scope."

A diagram of Ramey's vision is helpfully included. It features a large box in the middle labeled SCHOOLS, inside of which is a wide array of social workers and "psychometricians" (measurers of mental functions). Connected to this box are two other boxes labeled LOCAL ADVISORY COUNCIL and COORDINATING AGENCY, the second of which would handle "record keeping and information dissemination." The smallest box in the diagram is positioned shyly at the bottom of the page—it says FAMILIES.

Not only are many public-policy advocates praising the possibilities of the Abecedarian way, they are making wild claims about actual results. When Hillary Clinton says, "If we as a village decide not to help families develop their brains, let us admit that we are not acting on the evidence," she is ignoring the most crucial findings of the project's most recent years—findings that "we as a village" would do well to confront.

As the American Enterprise Institute's Douglas Besharov explained in the *Washington Post*, when "the children got older, the gap between the experimental and control groups narrowed to 7.6 IQ points at age 5 and to a statistically insignificant 4.6 points at age 15."



Sean Delonas

Murray notes that "the results are much more equivocal" than the Abecedarians would like to admit. Says Alfred Baumeister, professor of psychology at Vanderbilt, "If you actually look at the project beyond the few initial gains, over the 12 to 15 years there have been no evident gains." Twenty-one now, the kids in the two groups are almost equal. Baumeister estimates the difference to be about 1.5 IQ points and maintains that "whatever results they got were apparent at 6 months, and after the third grade, all gains were washed out, and there is now really no discernible difference." In the first edition of *It Takes a Village*, Mrs. Clinton writes, "Even more impressive than . . . these gains is their durability: the differences in IQ persisted a decade later." But the newly released paperback edition is devoid of any reference to "durability." Someone, apparently, has done some fact-checking.

The Abecedarian Project has frequently been accused of, as one former employee of the project puts it, "always having trouble with the data." And the data problem may stem from the fact that "the two groups were not comparable in their intellectual prospects at birth." Frances Campbell, senior investigator on the project, says that she does not look at IQ in assessing the effectiveness of the program: "This is not a good cognitive test," she says; "you can ask many questions of the data because the groups were randomly assigned." But while she believes that from randomness comes "good science," she concedes that "the

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numbers are not large enough to be reliable." Murray presses the point in *The Bell Curve* (co-authored by Richard J. Herrnstein), perceiving that "the major stumbling block to deciding what [the project] has accomplished is that the experimental children had already outscored the controls on cognitive performance tests by at least as large a margin . . . by the age of 1 or 2 years, and perhaps even by 6 months, as they had after nearly five years of intensive day care."

Herman Spitz, former research director at the Johnstone center in Bordentown, New Jersey, believes that the data overwhelmingly support Murray's claims. "On average," he says, "after 1.5 months, the experimental group was already outscoring the control group by about 6 points, which is the same difference 5 years later. No truly substantial gains in intelligence could have taken place in 1.5 months." And Frances Campbell, though she insists that true gains have been made, acknowledges that "baby scores don't mean much and do not predict adult intelligence."

Even so, Ramey continues to throw around such politically charged words as "moral imperative." By declaring that "this nation could reaffirm its concern about its young," he has left his social laboratory and entered the policy arena. Two former employees of the project describe him as an "operator" and a "go-getter," one who, regardless of the data, "has always believed what he set out to prove."

Driven by Ramey's taste for politics, Abecedarian scientists have become lobbyists for governmental action. And what they have in mind is nothing modest. Says Ramey, "We can't allow people to think that cheap programs have a realistic chance of succeeding."

But there are other, non-dollar costs as well. One public-school employee who worked with the project in the 1970s says that, while the experimentals' IQ scores may have risen, these children entered school "aggressive and ill-tempered" because they were raised collectively by physicians, psychologists, and nurses who catered to their every whim. She submits that "one year in pre-school would have had a greater impact on social skills" and asks, "What has all these millions of dollars really accomplished?"

What, indeed? Of the Abecedarian caregivers, Hillary Clinton says, "They were doing precisely what responsive parents do," after "gathering the children." But responsive parents do not release their children to the chimera of state-created well-being. And if "it takes a village to raise a child," it takes cool thinking and steady nerve to see through the claims, and resist the importuning, of the social engineers.

***Ari Redbord is a student at Duke University and publisher of the* Duke Review.**

MY COLOR 'TIS OF THEE

by Dinesh D'Souza

A FEW MONTHS AGO a colleague who works at a Washington, D.C., research foundation asked me whether I considered my two-year-old daughter, who has a white mother and an East Indian dad, to be "white" or "Asian." Neither, I replied. "She's beyond racial classification."

"Not according to the U.S. government," my policy-wonk friend retorted.

He was right. I called the Census Bureau and was informed that little Danielle should be listed as "white," because mixed-race children are expected to take the race of their mother.

"You mean," I said, "if her father were white and her mother were Indian, she would be classified instead as Asian?"

"Exactly," the Census official replied, adding in a low voice, "You see, in these kinds of cases we know the mother's background but we cannot always identify the father."

Bizarre. And consider the case of Susan Graham, a white woman married to a black man in Roswell, Georgia. Graham reports that although the Census Bureau counts her children as white, at her son's public school the teacher was asked to classify the child based upon appearance and decided that he was black. Graham sighs, "My child has been white on the United States Census, black at school, and multiracial at home—all at the same time."

For a generation now the U.S. government has been classifying citizens by skin color, a measure necessary to implement affirmative action programs, which affect public hiring, university admissions, contracting and set-asides, even the shape of racially gerrymandered voting districts.

Now for the first time, these official classifications are coming under serious challenge—from scholars who regard them as scientifically bogus, from parents of mixed-race children who refuse to make them choose between competing categories, and from citizens who have grown exasperated with the practice of allocating government benefits and privileges on the basis of pigmentation.

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Despite their familiarity, consider how inappropriate are today's official racial categories: white, black, Hispanic, Asian/Pacific Islander, American Indian, and "other." So-called Asians aren't a racial group; rather, the term is a continental description for such racially and culturally disparate peoples as the light-skinned Chinese and the dark-skinned Pakistanis. "Hispanic" too is not a racial but a linguistic classification, which refers to Spanish-speaking people of white, black, and native Indian heritage.

"Black" seems a comparatively clear category, but in fact it is no less dubious. Biologists and anthropologists tell us that the overwhelming majority of African Americans have both black and white heritage. So why are persons like Whitney Houston and Jesse Jackson, despite their mixed ancestry, automatically classified as black?

The reason is the historical peculiarity of laws in the American South governing slavery and segregation. In the antebellum era, slave status passed through the mother, a system designed to ensure that the illegitimate offspring of a white planter and his black concubine remained in servitude. Segregation institutionalized the infamous "one-drop rule," according to which a person was considered black if he possessed any evident trace of black ancestry.

Amazingly, the rules developed by slaveowners and segregationists to define sharp lines of demarcation between the races and to enforce a thoroughgoing system of separation and oppression are the *same* rules used by government agencies to classify American citizens today.

Now as before, racial classification is the servant of state-sponsored discrimination, a term that accurately describes many contemporary affirmative action programs. That is why, when the Census Bureau conducts hearings on whether it should stop categorizing citizens by color, the groups lined up in opposition are not the skinheads and the Ku Klux Klan but rather mainstream civil rights groups. These groups insist that without racial classification it would be impossible to enforce racial preferences in government policy.

In the era of Bull Connor, the old sheriff of Birmingham, the one-drop rule worked against minorities; now it works for us. One regular recipient of federal and state affirmative action contracts is a fellow who looks very much like a white guy but who is officially considered a person of color because he claims to have 1/64th Cherokee Indian ancestry. So nervous are bureaucrats about exposing the ambiguity of their racial classifications that no one has dared to go after his scalp.

Since jobs and benefits worth hundreds of millions of dollars are at stake, these racial scams have become commonplace. The Arab American Institute now insists that citizens of Middle Eastern descent, who are currently counted as white, be given a separate affirmative action category of their own. And in the latest comic twist, Hawaiian groups have demanded that Hawaiians be removed from the Asian/Pacific Islanders category and reclassified as American Indians. Lots of anthropological sophistry is invoked to prove that the Hawaiians didn't really emigrate to this continent from Asia, but what's actually at stake are gambling privileges currently available to American Indians and not to Asians and Pacific Islanders.

Whatever the past justification for racial classification and race-based preferences, it should be apparent that, in a multiracial America, the system is bound to break down. We are now living in a *café au lait* soci-

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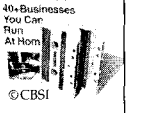

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ety where an increasing proportion of blacks, one-quarter of Hispanics, and one-third of Asian Americans marry outside their group.

It makes no sense to force this new generation of mixed-race citizens into the Procrustean bed of official racial categories. America runs the risk of developing its own version of the Nuremberg laws and thus inviting a grim future of balkanization and ethnic conflict. The alternative is to recognize that race is morally irrelevant and to insist upon a regime in which citizens are equal before the law and the government stops classifying and granting preferences on the basis of skin color.

Dinesh D'Souza is John M. Olin scholar at the American Enterprise Institute and author of **The End of Racism.**

Reich's Cabinet Leave

by Harvey S. Rosen

Robert Reich, the Clinton administration's forceful and feisty secretary of labor, resigned after the election, citing the conflicting demands of work and family. "There's no way of getting work and family into better balance," he said. "You're inevitably shortchanging one or the other, or both." Furthermore, "don't tell me to improve my time-management skills. I've done that, and I'm scheduled to the teeth."

This episode is quite revealing in view of Reich's idea of employer-worker relations. He and the administration act like there are two kinds of employers: Nice Bosses and Mean Bosses. Nice Bosses, because they are nice, give their employees time off to visit sick parents, be with their children, and take their dogs to the vet. Mean Bosses, because they are mean, do not. The policy implications are clear: A just nation must pass laws to make the Mean Bosses act like the Nice Bosses. A first step was the 1993 Family and Medical Leave Act, which requires employers with 50 or more workers to provide up to 12 weeks of unpaid leave to employees for the purpose of caring for their families. The president seeks to extend provisions of the act to include activities such as attending parent-teacher conferences. At a boisterous rally in Cleveland the day before the election, he declared, "I want to expand [family leave] because I think you ought to be able to take a little time off to go see your children's teachers twice a year and take your kids to the doctor. But they [employee- and parent-hating Republicans] don't. Your vote will decide. Will you seize the day tomorrow and help us expand family leave?" They did.

Thus, we are presented with a puzzle: Why didn't Reich stay in the cabinet and periodically absent himself to be with his wife and children? After all, he presumably has a bevy of very competent undersecretaries, assistant secretaries, deputy assistant secretaries, and the like to fill in for him during his occasional trips home to catch some quality time with his family. And surely Bill Clinton falls into the Nice Boss category. But Reich felt he had to quit. "Finding a better balance?" he said. "I've been kidding myself into thinking there is one. . . . I had to choose."

The obvious fact is that, even in a large enterprise with a lot of other employees and a sympathetic boss, it is not always possible to fill in for someone who takes a few days off, or even a few hours. In such an environment, forcing employers to provide leave to employees is inimical to the proper functioning of the organization.

Of course, some firms find it easier than others to shuffle things around when a worker disappears for a while. This simple-enough observation leads us to a view of the labor market more realistic than the Nice Boss-Mean Boss prejudice. The labor market is like a marriage market: Individuals with common needs search for each other and then come together. Workers who care a lot about flexibility gravitate toward jobs that provide it by paying a lower wage to cover the costs of flexibility. And workers who don't care much about flexibility end up at jobs where there is little allowance for taking time off. These varying arrangements are consequences of economic and technological factors, not the propensities of bosses to be nice or mean. This is the model that explains the behavior of Secretary Reich, who is now apparently seeking a better match in the labor market.

Perhaps he believes that only cabinet secretaries are essential to their jobs and that the rest of us can take time off without unduly disrupting things at work. The truth is that, even for those in less fancy jobs, absence from the workplace imposes costs on employers and fellow workers. Reich and his peers should learn from their own experiences that laws forcing businesses to adopt burdensome flexible leave policies are misconceived. At the least, their scope should not be widened.

Harvey S. Rosen is a professor of economics at Princeton University.

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HUTUS, TUTSIS, AND US

by Andrew S. Natsios

THE ONGOING CRISIS IN ZAIRE has brought several aid-related issues to the fore, among them, whether military force should be applied to protect non-combatants, including relief workers.

Humanitarian agencies are divided on the question. Most of them considered it near-heresy even to speak to military personnel, much less cooperate with them, until the West rescued the Kurds in northern Iraq after the Gulf War. They had thought that involvement with the military would compromise their neutrality. Yet when secretary of defense William Perry announced on November 15 that the Pentagon was reviewing the possibility of contributing troops to a Canadian-led force in Zaire, he made an astonishing admission: It was pressure from humanitarian agencies that was driving America's military response.

For two years, humanitarian agencies had issued regular warnings about the explosive situation in eastern Zaire, where Rwandan Hutus populated refugee camps. The Hutu militias, responsible for genocide in 1994, had converted these camps into military bases for the purpose of launching attacks on their opponents in Rwanda. The Tutsi-dominated Rwandan military answered repeatedly with nighttime commando raids into the camps. War raged there for over a year. Refugee civilians were kept in place by a combination of terror—anyone caught trying to leave the camps was beaten or killed by the militias—and aggressive propaganda warning that Tutsi soldiers would not welcome returning Hutus.

Between December 1994 and April 1995, two dozen of the most prominent Western aid agencies (including my own) withdrew from the camps because they were unable to wrest control of them from the militias. Enough agencies did stay on, however, to support U.N. and donor-government operations. The agencies that left and the agencies that stayed represent two schools of thought on relief: The one (exemplified by the Red Cross) argues that humanitarian work should be wholly divorced from politics and that aid should be supplied strictly on the basis of need, to persons on all sides; the other (exemplified by Doctors Without Borders) argues that politics often cannot be separated from relief efforts, that it is next to impossible to provide humanitarian aid in a neutral fashion, and that because some groups commit atrocities against their weaker adversaries, neutrality may be morally indefensible. The "neutrality school" has suffered body blows to its position as, in crisis after crisis, its central assumptions have proven untenable.

The debate over politics and neutrality has led to a certain cynicism. When humanitarian agencies demanded military and diplomatic intervention in Zaire, the *New York Times* said, in effect, "There they go again." When refugees began to move out of the camps back to Rwanda before the arrival of an international force, the response was, "You see, troops were unnecessary." The reality was otherwise. The threat of force can be as effective as its actual use, and the militias' lock on the camps was not broken until the West threatened to intervene. The specter of such intervention was critical to the return of some 600,000 Hutu refugees to Rwanda. The refugees believed that if an international force showed up, they had a better chance of a peaceful homecoming in Rwanda. The prospective arrival of the troops was a stronger insurance policy for these frightened refugees than any effort the U.N. or humanitarian agencies might have undertaken to assure them that Rwanda was safe. We know from experience in virtually every conflict that refugees make calculations about whether to remain in camps or return home. We also know that refugees are drawn to international military forces—for security, yes, but also for the food and water they lack.

In both the Somalian and the Liberian emergencies, we saw this same magnetic effect on displaced populations. In Somalia, the displaced population increased by 25 percent within two weeks of the arrival of American troops in Mogadishu. People told us candidly why they moved en masse towards the city: They sought protection from raging clan wars, and they were in desperate need of food. In Liberia, U.N. food distribution and the presence of West African troops caused the population of the capital city to double. And the same principle undoubtedly operated in Rwanda in encouraging the repatriation of the Hutu refugees. What has been absent in U.S. planning is an understanding of what makes people pick up and move in chaotic circumstances.

Strategic incoherence has troubled too many American humanitarian efforts in the past. What Zaire, Burundi, and Rwanda need now is some robust American diplomacy to force contending groups to the negotiating table so that the larger political crisis is settled before more innocent blood is spilled. Humanitarian agencies are not foreign or defense ministries. Their band-aids are no substitute for geopolitical power. And one thing we know for sure: We have not heard the last of the agonies of that part of Africa, nor of the conundrums of trying to do good in conflicts that shock the conscience.

Andrew S. Natsios is vice president of World Vision, a faith-based international humanitarian organization.

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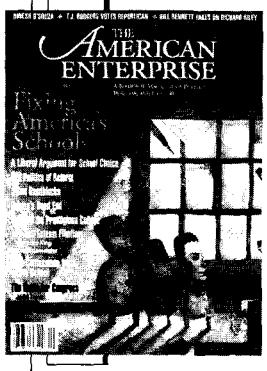

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WHY CONSERVATIVES SHOULD EMBRACE THE GAY GENE

By Chandler Burr

I recently wrote a book on the biological search for the origins of homosexuality. In its final chapter, I described some rather amazing work being done at two biotech companies: The first is trying to manufacture a computer chip out of human DNA to tell you exactly what genes you have, while the second is creating artificial viruses that can send new genetic material into your cells. The chapter is titled "How Genetic Surgery Can Change Homosexuality to Heterosexuality," and the other week I received the following letter about it from a 38-year-old lawyer.

"Do you know of any research institutions that are currently studying the possibility of converting homosexual men to heterosexuality?" the lawyer asked. "I would be very interested in making such a change. I am gay, and for personal reasons would like not to be. My thoughts on this don't come from a religious perspective, and I don't believe homosexuality is something to be ashamed of. I have gay friends, and I have been out to my family for 18 years. I'm happy in many aspects of my life, but for a variety of reasons homosexuality is not for me. . . . I never entertained the hope of changing since everything I have read about changing through traditional psychotherapy suggests the chances are slim to none. I've always experienced my homosexuality as immutable—something deeply a part of me. But your book was the first thing I've read which gave me hope. . . .

"I would travel just about anywhere and would volunteer for 'guinea pig' status, assuming a sane level of risk. If you don't know of anyone currently doing research, how might I best keep myself informed of continuing developments? Frankly, I would like to be the first on line the minute some form of treatment becomes available."

THE RIGHT HAS SO FAR FAILED TO COMPREHEND THAT THE LATEST BIOLOGICAL RESEARCH ON SEXUAL ORIENTATION PLAYS INTO ITS POLITICAL HAND.

Rapid advances in genetic research and biotechnology may well make it possible to take what the lawyer describes as "immutable" and change it. If these two biotech companies are successful, the lawyer might find himself in a doctor's office within a decade or two. The doctor will have a syringe loaded with millions of engineered viruses. He will inject them into the lawyer's bloodstream and send him home. And one morning, maybe six months later, the lawyer will wake up—and his internal orientation, his instinctive romantic and sexual attraction, will be heterosexual.

What makes this scenario possible is the discovery that sexual orientation is a biological trait, produced by a "gay gene." Conservatives who dislike homosexuality have always hated the concept of a gay gene and argued against it. But this is because conservatives do not understand what its existence really implies: The gay gene is a remarkable vindication of conservative ideas about human nature and may offer one of the most devastating refutations of liberalism we have yet seen. Right now, most conservatives are unaware of this, as they are also unaware of the clinical research—all but universally accepted among biologists—showing that homosexuality is a biological trait. Conservatives need both to face this research and to understand how it works for them.

Ever since homosexuality became an issue in the United States 30 years ago or so, there have been three competing positions on it.

POSITION 1: Homosexuality is a chosen "lifestyle," like vegetarianism.

POSITION 2: Homosexuality is a disease, like schizophrenia.

POSITION 3: Homosexuality is like left-handedness, and is neither chosen nor pathological.

Chandler Burr, a writer living in Washington, D.C., is the author of A Separate Creation: The Search for the Biological Origins of Sexual Orientation *(Hyperion).*

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Secular conservatives tend to accept Position 1 and/or Position 2, which means that every new piece of lab research on the gay gene sets their teeth on edge. But say that science had concluded Position 3 was a matter of fact. There is no question that conservatives would suffer a short-term loss; it is always painful when you have committed yourself to a belief that is literally proved untrue, and enemies of conservatism would play "gotcha" for a while.

But what the Right fails to comprehend is that a conservatism unremittingly hostile to homosexuality and *truly* committed to the resurgence of conservative thought with real impact on public policy can, and should, embrace the gay gene, which will bring conservatives two long-term gains.

First, the short-term loss. For every trait they study, clinicians and biologists routinely assemble a "trait profile," the sum total of all the data they have gathered clinically (from observation) about a trait. Here is a brief summary of one trait profile: The trait shows up in the population as two "orientations." Ninety-two percent of the population has the majority orientation. Eight percent has the minority orientation. The trait is non-pathological and unchosen, and the minority orientation runs in families with what geneticists call a "maternal effect" (meaning the gene is probably on the X chromosome, which men always get from their mothers). It is heritable, as demonstrated by the fact that identical twins, who are natural clones, are far more likely to share the minority orientation than siblings who are not twins.

Neither orientation correlates with social environment, family structure, religion, or culture. Role models, two-parent families, divorce, and other environmental influences can't "make you" have the minority orientation. Through social or religious pressure you can force someone to alter the "behavior," that is, the external expression of this trait. But you cannot alter the *internal* orientation—the trait itself.

The trait I have just described is . . . *handedness*. Right-handedness is the majority orientation, left-handedness, the minority. But the trait profile of handedness is astonishingly similar to the trait profile that geneticists are assembling of human sexual orientation.

Heterosexuality, the majority orientation, accounts for roughly 95 percent of us, while homosexuality, the minority orientation, accounts for 5 percent. (The "10 percent gay" figure has always been a statistical concoction of the gay-rights movement.) Clinical research shows that homosexuality is clearly heritable, like left-handedness, and neither correlates with any environmental factors. And the sexual orientation, like the handedness, of adopted children bears no relationship to that of adoptive parents (which means environment is not a factor).

Both show a "maternal effect" pointing towards the X chromosome. A much-discussed study done in 1993 by a team of geneticists at the National Institutes of Health found a spot on, sure enough, the X chromosome that they believe contains a gay gene. The NIH team is now in the process of pinpointing the gene itself, which has already been registered by the name GAY-1.*

What does this mean for conservatives? Here is the first long-term gain. One neuroanatomist I spoke with—a straight, pro-choice New York City liberal who favors total political acceptance of homosexuality—growled, "While [conservatives] can't win the disease argument, and they can't win the choice argument, admitting that [homosexuality is] biological and unchosen is their trump card. It means they've won on an argument that is still only on the horizon today: changing it. Their people can immediately adopt a strategy of, 'Okay, let's fix it, let's eliminate it.'"

How this could be done is easily described. After pinpointing the gene, the next step is to find out what the protein it codes for actually does. And the biotech industry is already developing a method that would allow doctors to insert a different version of that gene—what geneticists are now referring to as STRAIGHT-1—into human beings.

At a conference on molecular genetics while researching my book, I saw the future. A young, rather cocky biotech wizard told his audience of 25 senior oncologists how his lab had injected 20 rats with carcinogens. He flashed a slide on a screen. There were 10 of the rats, cut open, their insides infested with rancid-yellow cancerous lesions. Then, said the biotech guy, they injected the 10 other rats with viruses they had engineered, viruses into which they had loaded an anti-cancer gene. He flicked to the next slide, taken six months later—the cancer had vanished. Twenty-five oncologists gasped in unison.

Now, this work was being done to fight cancer. But the technology is applicable to *any* gene. Apply it to

*What's the study worth? The certainty of genetic studies is determined by their "significance," or "p value," .05 being the minimum needed for scientific acceptance. If a study gets .05, it has statistically only a 5 percent chance of being wrong. So a .03 would be better, having only a 3 percent chance of being a false finding, and a .01 would be better still.

What was the "p value" of the NIH study? .00001.

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GAY-1, and you have genetic surgery to eliminate homosexuality.

Even sooner than this scenario becomes possible, however, the gay gene may provide ammunition to conservatives in the debate over abortion. We know genetic surgery will require progress in a number of different scientific disciplines before it is practicable. That may take a decade or more. But all the technology for selective abortion already exists. A test like amniocentesis may soon be able to determine whether a fetus will become a gay adult—and given the fact that there is an almost unlimited right to abortion, parents will certainly be able to terminate the fetus on that basis alone.

This truth turns the politics of abortion upside down. Liberals will be faced for the first time with the fact that the "right to choose" might be used to target one of their own constituencies. And the possibility that abortion will be used as a form of sexual eugenics might make liberals who have long fought for the right to abortion in every circumstance think twice.

Furthermore, genetic research may yet lead to the discovery that the gay gene is a disease gene. The most carefully considered theory on how GAY-1 might operate posits that it is a *defective* gene, one that in 5 percent of the population fails to carry out the biochemical function for which natural selection chose it. Result? Homosexuality.†

Pat Robertson often claims that "obviously" there could not be a gay gene because nature only selects for genes that "increase reproduction." Robertson knows nothing about the subject. Any first-year college genetics student could point out that anti-reproductive traits are "selected for" all the time. How? Through something called "pleiotropy," the fact that genes have side effects, as do drugs. Nature not only could easily select for a gay gene, but it can, and does, regularly select for genes that *kill* us. One example: the gene that nature selects to protect us from malaria. This gene has a devastating pleiotropic side effect—it's called sickle-cell anemia. If it turns out that the "gay gene" is simply another example of pleiotropy, this would suggest that homosexuality is, like sickle-cell disease, nothing more than a biochemical fluke. Why, then, should conservatives cower before the idea of a gay gene? Huntington's disease is caused by a gene, and that makes Huntington's neither "good" nor "acceptable."

Kevin Chadwick

In addition to the biomedical payoff, there is a more important reason to embrace gay-gene research—an ideological one. This is the second long-term gain for conservatives. The fundamental battle between Right and Left since the modern era began is about one thing: Whose view of human nature is correct? The great majority of us never think about it, but every policy, every program, every law regulating everything from guns to homelessness to taxation is predicated on how its formulators see human nature.

The liberalism that emerged from Locke and Rousseau holds that everyone is born *tabula rasa*, as a blank slate upon which society and environment write the adult that emerges. This is liberalism's most fundamental assumption, and in late-20th-century America it is the intrinsic and usually unstated justification for taxpayer-funded social programs. Pass enough programs, spend enough on them, and we can equalize the sexes, equalize the races, level all professional playing fields, wipe out criminality, make the lazy industrious, the stupid smart, the violent pacific, and the poor rich.

†To be more precise, homosexuality in males. GAY-1 and STRAIGHT-1 probably affect only men. Research consistently reveals a clear male/female discrepancy; there are about twice as many homosexual men (around 6 per 100) as homosexual women (around 3 per 100), and sexual orientation in women, researchers believe, may involve completely unrelated genes.

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The research on homosexuality says: No. It says: In fundamental ways, we are born with many important aspects of the way we are. And nothing—no Head Start program, no midnight basketball, no welfare check, no well-intentioned but misguided clemency from the bench—can modify that or make it better. It is evidence for the most important assertion that conservatism makes about human nature: We are, in some ways, born different. Men are different from women. Sometimes the violent need to be locked away. Intelligence is, to a certain degree, a given. The brand of liberalism that now dominates public policy is futile because it ignores human nature. Its philosophical leniency is an assault on society and on common sense.

Journalist James Fallows, himself a liberal, put it to me this way: "Liberalism, which has for the past four hundred years ridden to triumph on science, is now at odds with science, which is showing deeper remnants of our animal past than liberals are comfortable with."

The implications of biology's findings have not escaped scientists. Laurence Frank, a zoologist at Berkeley, exclaimed to me with disgust, "I can't even call myself a liberal anymore!" Frank had given a lecture on animal endocrinology and the way hormones determine maleness and femaleness, "and a young woman came up afterwards and she was shocked, *shocked* that I would say such a thing." In her view, "maleness" is just macho posturing "socially constructed" by society, "femaleness" a myth created by the Neanderthal patriarchy. But to biologists, gender is as real as oxygen.

Frank sighed and said, "The observation that behaviors are biologically directed is scary to liberals because that means people aren't infinitely malleable. It means you can't pass laws and do social engineering to change the nasty people, and liberals—and Marxists in the more extreme sense—are completely and totally committed to the notion that we can change *anything*. All we need is good will." He concluded: "It seems to me just extravagant stupidity to pretend devoutly that humans are totally cultural and environmental creatures."

In fact, the traditional conservative position on homosexuality—"lifestyle"—toes *exactly* this liberal line. Fallows observed piquantly and with some pleasure that the "lifestyle" argument "has always forced conservatism, a philosophy holding that the environment has little to do with outcomes—and that liberal programs meant to alter it are a waste of money—to make an inconvenient exception on homosexuality and argue, contradictorily, that young people can be pushed one way or another into profound aspects of their personalities by education and society. Which is *exactly* what liberals have wanted them to admit." Dump the internally illogical traditional position for a stance the liberal Fallows describes as "truly repellent to the liberal mind," and conservatism becomes stronger, not weaker.

The conservative case for the gay gene will strike many as too pragmatic, somewhat equivalent to the case for pro-choice Republicanism. I admit the parallel. I am a Colin Powell Republican and a gay person who is an ardent assimilationist. I am an assimilationist in part because I look at a homosexual orientation as a biological roll of the dice that has all the political importance of left-handedness, i.e., none at all. For this reason, like the lawyer who wrote me, I too would not be opposed to considering genetic surgery.

Some conservatives may find accepting the gay gene as repugnant as accepting choice on abortion. But there is one glaring difference between them. The key question about abortion is, "When does human life begin?"—and answering it means defining the term "human life." For most pro-lifers, humanity has something to do with the soul, and the existence of the soul is not determinable by science.

But the question about homosexuality and volition—whether one chooses to be gay—is subject to empirical verification. And among researchers, this question is considered answered. Which means that supporting Position 1 or 2—lifestyle or disease—will soon be as politically successful for the Republican party as supporting creationism.

And for those who find intolerable even the short-term gain that liberalism would get from a conservative conversion to the idea of a biological homosexual orientation, I would remind them that there is a way out—the final element of the conservative case for the gay gene. From the perspective of those who seek total proscription of homosexuality, it is certainly imperfect, but it is at the same time a way for conservatives to stop shrinking from science and accept the gay gene while nullifying its pro-gay political impact. It is the most obvious piece in the debate: religion.

Jeffrey Marsh, a physicist and orthodox Jew, reviewed my book for THE WEEKLY STANDARD (August 5, 1996) and made two conclusive statements. The first was scientific: The research has demonstrated the biological nature of homosexuality. The second was religious and moral: This doesn't matter. "The Bible," wrote Marsh, "does not forbid homosexual *activity* [emphasis mine] because it is 'unnatural,' but [because it is on] a long list of prohibited sexual relationships."

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Many Biblically proscribed traits, Marsh noted, have quite natural biological components, from greed to adultery, theft to murder. But to religion, biology is immaterial.

It is unnecessary for religion to pronounce on molecular genetics not merely because (as in the case of Pat Robertson) it usually gets molecular genetics wrong, but because genetics are irrelevant to religion. For religion speaks with absolute authority on the morality of the myriad traits that genes and molecules create, including human sexual orientation.

Naturally, liberals and those who are pro-gay will combat this religious position with two arguments. The first: "The religious position—to take a specific example, the Catholic position that homosexuality is an 'intrinsic disorder'—is empirically incorrect." The immediate and dispositive religious counter-response: "Who cares?" First, religion is not subject to empirical verification. And the Biblical prohibition is on homosexual behavior, not homosexual orientation. In the same vein, there are very good reasons to believe that criminality has a genetic component, and proof of that would not invalidate legal proscriptions against criminal behavior.

The second liberal response: "The First Amendment separates church from state." The religious counter-response: Like a principled opposition to abortion, the religious opposition to homosexuality rests on a moral stance that is translated into individual positions on policy. Science presents information, but judgment and values and morality must be applied to that information.

Ultimately, a moral opposition to homosexuality is above debate, just as it is above bioassay and data set. A moral opposition to homosexuality will not prevent the short-term loss that an acknowledgment of the gay gene will cause, but it is the best response to it. Science produces the ability to understand the mechanical functioning of genes, but it does not change the moral nature of the traits they produce.

Which is why, after the announcement of the gay gene's discovery, Immanuel Jakobovits, the former chief rabbi of Britain (and reputedly Margaret Thatcher's favorite religious leader), stated to the conservative *Daily Mail*: "Homosexuality is a disability, and if people wish to have it eliminated before they have children . . . I do not see any moral objections to using genetic engineering to limit this particular trend." Marsh, the physicist, framed the rabbi's idea more broadly and more trenchantly: "Fulfillment of [the human] potential [for holiness] depends on a continual struggle to overcome many perfectly natural human inclinations. By showing man how those natural inclinations work, science can help him in that struggle."

The science will show what it will show. And if it shows how biological traits such as homosexuality work, then this simply means that we can reply in the affirmative to someone like the lawyer who wrote me: "Do you know of any research institutions that are currently studying the possibility of converting homosexual men to heterosexuality? I would be very interested in making such a change. I am gay, and for personal reasons would like not to be. . . ." ♦

James Carville's Crusade

A Portrait of the Consultant as an Aging Enfant Terrible in Mid-life Crisis

By Tucker Carlson

"David Gergen doesn't like this? David thinks it's inappropriate? Gee, *that'll* put me cold in my tracks. I think I'm going to stop." James Carville seems angry and amused at the same time. Yelling into the phone, his already garbled Louisiana speech rendered nearly unintelligible by sarcasm, Carville describes how his plan to discredit Whitewater independent counsel Kenneth Starr has been attacked by many in official Washington as irresponsible, even offensive. "The chattering class in Washington is all in an uproar about this," he says, "and that tickles me to no end."

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Carville is right about one thing: The chattering class *is* in an uproar over his behavior, almost unanimous in the belief that he has finally spun out of control. In the days since Carville announced his intention to mount a public-relations campaign against Starr—a man he calls a "right-wing partisan Republican" on an ideological crusade to destroy the president—the sometime Clinton adviser has been assailed from all sides.

"Nonsense," snorted Sen. Daniel Patrick Moynihan, echoing the opinion of many Democrats in Congress.

"Such an 'all-out' assault would be unprecedented in the history of independent counsels," explained a remarkably unsympathetic news story in the *Washington Post*.

An even harsher response came from Republicans, including Carville's own wife, Mary Matalin, who felt so strongly she called at least one conservative journalist and asked him to write an op-ed attacking her husband.

Carville spends most of his waking hours in the happy company of Washington's chattering class (and is among its most successful members), so the attacks on his anti-Starr efforts most likely are nothing personal. But Carville's rhetoric has recently gone from ordinary political agitation to potentially destructive demagoguery. Even his friends recognize that he has crossed a boundary, and they are appalled.

So appalled that for a moment late last week, despite his sticks-and-stones tough-guy pose, Carville seemed to pay attention to his critics: The anti-Starr group he has created might not run television commercials against the independent counsel, Carville says, if Starr conducts the Whitewater investigation in a "professional manner." But Carville does not plan to stop his attacks elsewhere, or the fund-raising needed to sustain them. Indeed, reached at his office only hours after news reports declared his crusade over—"CARVILLE SAYS HE MIGHT DROP PLAN TO CAMPAIGN AGAINST PROSECUTOR," announced a breathless *New York Times* headline—the political consultant hardly seemed to have gone back on his original intentions. "I'm going on *Brinkley* this weekend to talk about it," he said, chuckling.

Carville's essential contention is that Ken Starr is not an "independent" counsel at all, but a puppet of the conservative movement who has used "his subpoena power to advance the right-wing agenda." His evidence? For one thing, Carville says, Starr recently gave a speech at Regent University Law School, which was founded by none other than Pat Robertson, "the biggest political enemy that the president has." For another, during his time as independent counsel, Starr has represented Philip Morris and Brown & Williamson tobacco companies. "And I have no doubt that the tobacco industry loathes the president," says Carville. In addition, while investigating Whitewater, Starr has represented the state of Wisconsin in a case concerning education reform. Some of the money that has gone to pay Starr in that case has come, indirectly, from the conservative Lynde and Harry Bradley Foundation—yet another group of "people who *really* loathe the president." All of this adds up, Carville says, to an investigation that is entirely "politically motivated." "I find it very, very upsetting," he says solemnly.

Kent Lemon

To illustrate just how upsetting, Carville suggests a "mirror image": "What in the name of God would have happened if the man who was investigating Gingrich [independent counsel James Cole] was representing the AFL-CIO and giving speeches to gay groups and environmental groups? It would be *the end of days*."

Carville has a point here—Republicans *would* go bananas if the roles were reversed. But it's also something of a non sequitur, since the fact that Starr has had contact with conservatives still proves nothing about his personal motives or about his fitness to investigate the president. Take Carville's allegation that Starr's work on behalf of tobacco companies

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destroys his credibility. As it turns out, Bill Clinton could have much the same problem. Clinton's personal law firm, Williams and Connolly, also represents Big Tobacco. Indeed, lawyers from Williams and Connolly have been hired by the industry to fight the Clinton administration's attempts to regulate tobacco.

What does this tangled web of alliances prove? More than anything, that Washington is a small place, where conflicts of appearance—caused by marriage, profession, political affiliation—abound but don't necessarily mean anything. Carville has done a fair job of demonstrating that Starr has conservative sympathies. But Starr's political leanings have never been a secret; indeed, they are part of the reason a three-judge panel picked him for the job. As Starr himself pointed out in a speech before the Oklahoma Bar Association last month, special prosecutors traditionally have differed politically from those they investigate. Archibald Cox not only investigated Richard Nixon during Watergate, he also helped John F. Kennedy beat Nixon in the 1960 presidential race. Cox's successor, Leon Jaworski, was an active Democrat who once defended Lyndon Johnson in a lawsuit brought by Republicans. In fact, since the days of the Grant administration, most independent counsels have come from the opposing political party. The practice of appointing a "highly partisan" investigator to be independent counsel, in other words, may or may not be a good idea, but it is hardly new.

Kent Lemon

Nor has Starr turned out to be unduly partisan. A politically motivated independent counsel would have given speeches in the weeks before the election attacking the White House for intransigence. Starr kept relatively quiet until after Clinton won. Starr may even be a moderating force. According to *Newsweek*, Starr has determined that deputy White House counsel Vincent Foster's death was indeed a suicide—a finding that should dispel some of the kookier theories on the subject now circulating on the right. Perhaps most significant, the attorney general has the legal right to remove an independent counsel. If she had reason to believe Starr was engaged in a witch hunt, Clinton's own Janet Reno could fire him. Instead, she has repeatedly expanded the scope of Starr's investigation by giving him more scandals to look into.

Carville doesn't say much about Reno's tacit endorsements of Starr. "I haven't talked to many people at the Justice Department," he explains. Then again, he doesn't have to. According to Carville, he already *knows* Starr "is a man who does not like the president," a "Clinton-hater, to put it bluntly." How does he know this? Why, Starr told him.

In October 1993, Carville says, he was minding his own business in the USAir Club at Washington's National Airport when "an intense fellow" approached him and, with no apparent provocation, began to berate the president. "Your boy is getting rolled," Carville claims the man said of Clinton. "He doesn't stand for anything." Before the man left, Carville says, he "identified himself as a former judge or something." He also gave his name: Ken Starr.

Months passed and Carville says he forgot about the incident. In August 1994, however, when Starr replaced Robert Fiske as independent counsel, Carville claims he "saw his picture on television and I knew this was the guy that I ran into in the airport." Armed with this special knowledge, Carville immediately offered to leave the White House payroll and pursue a campaign against Starr. But he was dissuaded by Clinton advisers Mark Gearan and George Stephanopoulos, who warned that newly appointed White House counsel Lloyd Cutler would quit if Carville went ahead. (Cutler, who was among those who worked to formulate the Ethics in Government Act of 1978 that created the office of special prosecu-

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tor, reportedly was horrified by the unseemliness.) "I was stupid and weak to be talked out of this at the beginning," Carville now says.

Carville's airport tale is the most compelling element of his case against Starr, the smoking gun that ties motive to the special prosecutor's actions and allows Carville to make such authoritative statements as, "I know for a fact that he really don't like Bill Clinton; I seen that in his face and in his voice and what he said." The story has been extraordinarily useful to Carville; it is also extraordinarily weak.

The tale first saw print in a *New Yorker* piece by Jane Mayer last spring, and as Carville retells it, one almost gets the feeling he is reading from Mayer's account of his account. Pleading memory lapses, Carville adds precisely no detail to the already vague anecdote: no physical descriptions, no further dialogue, and, most important, no context for Starr's supposed remarks. Based on what little detail Carville can muster, Starr could have been quoting someone else—if, indeed, he even said these things. Relentless spinner though he is, Carville is not regarded as a liar, so it doesn't seem likely he created the story whole. Still, almost nothing about it rings true to those who know the courtly, restrained Starr, who has refused to comment publicly on Carville's recollections. Until Carville can come up with a better story, it's hard to take the Showdown at the VIP Lounge at face value.

Upon inspection, just about all of Carville's "evidence" of Starr's base motives turns out to be vapor. Privately, however, many Republicans do say they are troubled by Starr's insistence on maintaining private clients during the Whitewater investigation. Congress specifically allows special prosecutors to take outside work, in the belief that the best candidates wouldn't accept the job otherwise. On the other hand, Starr is conducting the most politically important investigation in the country. Representing clients such as tobacco companies just doesn't look good—comes off as disconcertingly impolitic, in fact, particularly for somebody who has lived in Washington long enough to know better. "He has a political tin ear," says someone who has talked to him about the subject.

Another explanation may be money. Starr bills private clients about seven times as much as he receives from the federal government for Whitewater work ($390 an hour versus $55), and the $1 million he makes per year in private practice (give or take) may have been too much to turn down. Either way, Starr has made a tactical blunder by not devoting himself wholly to Whitewater.

But a tactical blunder is all it appears to be. Carville's charges are striking in that they hardly address how Starr has handled the actual investigation, much less the merits of any case he might be building against the Clintons. Some of Starr's deputies have been accused of using hardball tactics, though nothing they have done so far seems unusual for a white-collar investigation. (In fact some Republicans have complained that Starr, who had no experience as a prosecutor, has not been tough *enough*.) Otherwise, Carville does not point to a single misdeed Starr has committed while investigating the president. Instead, he has attacked Starr as a person, much as he assailed Paula Jones as white trash when she accused the president of sexual harassment. ("You drag $100 bills through trailer parks, there's no telling what you'll find," Carville said at the time, ignoring the question of whether or not Clinton had done what Jones said he had.)

So far, the administration ostentatiously has refused to "take sides" in the matter, though Clinton has said he does not plan to ask Carville to stop—a decision that makes sense to Carville. "I can't imagine why the president *would* want me to knock it off," he says. Why, indeed. As it stands, Clinton benefits from the attacks on Starr—attacks that may, as some Whitewater prosecutors believe, affect the investigation's outcome by influencing potential jurors. Meanwhile, Clinton can remain safely at arm's length from Carville's more outrageous outbursts. Politically, it is an almost unbeatable arrangement—the principle of triangulation applied to character assassination.

In the end, however, it is hard to escape the feeling that the attacks on Starr have less to do with defending Clinton than with whatever sort of mid-life crisis affects political consultants. Carville clearly is bored with the lecture-and-book circuit and aches to get back into politics. The anti-Starr crusade has afforded him just such an opportunity, and Carville has turned it into a para-political campaign, complete with a sober-sounding name (the Education and Information Project), a war room in his office, endless rounds of frenzied phone calls, and a group of "well-meaning young people" to help. According to Carville, the fund-raising will start soon—"If my elbow hit the speed-dial on my phone, I could raise $200,000," he says confidently—and he is already thinking of buying the Clinton-Gore campaign-donor list to mount a direct-mail campaign.

Caught up in the excitement of warfare, Carville says he already envisions a permanent organization, ever ready to defend the president on "a number of other issues" beyond Whitewater. What sorts of issues might those be? Whatever "strikes my fantasy," James Carville says. ♦

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Maybe You Should Carry a Handgun

By William Tucker

Like most people in America, I'm of two minds about gun control. To wit: Several years ago, my parents retired to a remote part of a southern state famous for its military traditions. For a long time, I was consumed with lurid fears about their isolation ("If someone were just to come in and cut their telephone wires . . ."). Then it occurred to me how safe they truly were. Although my parents, gentle suburbanites, had nothing in the house more lethal than a Ping-Pong paddle, everyone else within 50 miles slept with a shotgun under the bed. My parents were free-riders on a highly organized, if informal, system of crime deterrence.

On the other hand, in my Brooklyn neighborhood, there are confrontations almost every day. A short while ago, right in front of my house, a 20-year-old hothead who bragged, "I'm from Jersey and I don't take this crap," got into a fight with my 75-year-old neighbor over a double-parked car. I separated them (not as hard as it sounds, since nobody really wanted to fight), but my neighbor felt compelled to go indoors and retrieve a homemade knife, which he brandished in the other man's face. If either had had ready access to a gun, I'm sure there would have been bloodshed.

THE CRUCIAL QUESTION OF THE GUN CONTROL DEBATE IS WHETHER HANDGUNS DETER MORE CRIME THAN THEY INCITE.

This question of whether handguns deter more than they incite is more than academic. New York, Illinois, California, Massachusetts, and several other populous states will soon be debating laws that would allow most citizens to easily obtain permits to carry handguns. Florida adopted the first such law in 1987 and saw a subsequent drop in crime—although there is fierce debate over whether the law and the drop are connected. About a dozen rural states quickly followed Florida's lead.

The debate over the effect of these new laws has now been enlivened by an impressive study from two University of Chicago economists, who say there has been a significant drop in crime where states have freed up handgun permits. Their study has been excoriated by the gun-control lobby, which has called the authors pawns of the gun industry. In truth, the Chicago study is far more substantive than its critics want to allow. Whether that means the average citizen in New York, Chicago, and Los Angeles would be better off packing a pistol is still an open question.

The Florida law was a reaction to a wave of violent crime in the state that had worsened throughout the 1980s. Spurred by the National Rifle Association, the state legislature made it much easier to get a permit to carry a gun. Until then, Florida, like most states, gave considerable discretion to local officials to decide who got permits. Even citizens who met minimum requirements—taking a gun-safety course, not having a criminal record—might still have been denied permits (rural sheriffs were generally far more liberal in issuing permits than their urban and suburban counterparts).

The 1987 law shifted the burden of proof. Now if a person meets the basic requirements, local authorities *must* issue a license (this is called a "right-to-carry" or "shall-issue" law in the literature, as opposed to the "may-issue" law it replaced). The logic is simple. Criminals will carry weapons whether they have permission or not, but if ordinary citizens also can carry them, criminals will be more cautious—particularly in committing robberies or rapes. Or, as the National Rifle Association's slogan has it: "An armed society is a polite society." Almost 200,000 Floridians, one in every 65 residents, now have three-year permits to carry a concealed weapon. "A large number of these permits are being obtained by women," says Bill Powers, media relations coordinator of the NRA. "They want to protect themselves."

On the other hand, laws like Florida's might be expected to increase bloodshed. "It's common sense," says Doug Weil, research director at the Center to Prevent Handgun Violence, in Washington. "The more

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guns people are carrying, the more likely it is that ordinary confrontations will escalate into violent confrontations."

So what has happened? Again, the results are heatedly disputed. Florida crime rates remained level from 1988 to 1990, then took a big dive. As with all social phenomena, though, it is difficult to isolate cause and effect. Not that academics haven't been trying.

In 1995, David McDowall, Colin Loftin, and Brian Wiersema, of the Violence Research Group and the Department of Criminology and Criminal Justice at the University of Maryland, tackled the issue. On a grant from the U.S. Centers for Disease Control, they looked at homicide rates in five cities—Tampa, Miami, Jacksonville, Jackson, Miss., and Portland, Ore.—both before and after shall-issue laws went into effect. They concluded murders had actually gone up in Jacksonville, Jackson, and Tampa immediately after the laws went into effect.

"Across the five areas, firearms homicides increased in the aftermath of the shall issue laws," the authors wrote in a paper published by the *Journal of Criminal Law and Criminology*. "This interpretation is consistent with other work showing that policies to *discourage* firearms in public may help prevent violence."

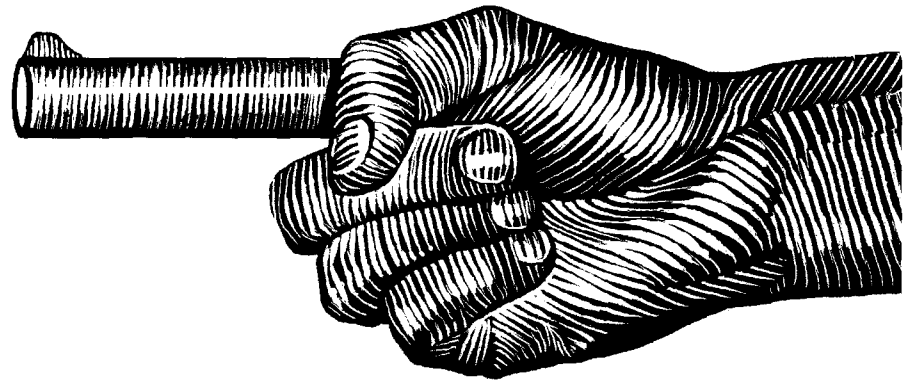
The study had obvious limits. The five cities were apparently chosen arbitrarily. The data extended only through 1991, missing the crime drop in Florida that started that year. Nevertheless, the Maryland paper won some attention.

One person whose curiosity was piqued was John R. Lott, Jr., former chief economist at the U.S. Sentencing Commission (1988-1989) and now a teacher at the University of Chicago law school. Lott was intrigued by the possibility of applying sophisticated statistical techniques to the question. "I read a couple of the papers on gun control questions, and they seemed very weak," says Lott. "All of them were either time series in one city or cross-comparisons between cities. I thought something a lot better could be done."

Teaming with David Mustard, a graduate student in the University of Chicago economics department, Lott pulled together crime statistics over a 16-year period from all 3,054 counties in the United States. After a great deal of calculating to exclude other factors that might affect the crime rate, the pair found that murder rates dropped 8.5 percent, rapes 5 percent, aggravated assaults 7 percent, and armed robberies 2 percent in the years following adoption of shall-issue laws like Florida's. They found no increase in accidental deaths by firearms. Interestingly, property crimes *increased* 3 percent, with burglaries up .5 percent, larceny up 3 percent, and auto theft up 7 percent. Lott and Mustard speculate that there was a "substitution effect"—that criminals, concerned about encountering armed victims, switched to burglary, larceny, and auto theft in search of quick cash.

> Almost half the burglaries in Canada and Britain, which have tough gun control laws, are "hot burglaries" [where someone is at home when the criminal strikes]. By contrast, the U.S., with laxer restrictions, has a "hot burglary" rate of only 13 percent . . . [S]urveys of convicted felons in America reveal that they are much more worried about armed victims than about running into the police. This fear causes American burglars to spend more time than their foreign counterparts "casing" a house to ensure that nobody is home. Felons frequently comment . . . that they avoid late-night burglaries because "that's the way to get shot."

This effect, the authors noted, was more pronounced in densely populated, high-crime counties than in low-crime rural areas. Had right-to-carry laws been adopted across the country in 1992, they speculated, "approximately 1,570 murders; 4,177 rapes; and over 60,000 aggravated assaults would have been avoided yearly."


Kevin Chadwick

Predictably, all hell broke loose. The day Lott and Mustard presented their findings at a Cato Institute seminar in July, the Violence Policy Center, a Washington, D.C., anti-gun lobbying group, held its own press conference in Chicago. Releasing a study purporting to show an increase in crimes committed with legal guns in Florida, VPC also revealed alleged "details of the firearms industry funding links behind

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the new study released by University of Chicago researcher John Lott, who claims that relaxed concealed weapons laws have the power to turn murderers and rapists into burglars."

The charges involved tortured logic: Lott happens to be a John M. Olin Law and Economics Fellow at the law school, which means his salary there comes from a grant by the John M. Olin Foundation, which in turn was endowed with profits that once came from the Olin Corporation, which among other businesses happens to own Winchester Ammunition, "the largest ammunition manufacturer in the U.S." *Et voilà*: Instead of a serious academic, Lott is really a salesman for the ammunitions industry!

Other critics have been more sober. "What Lott and Mustard have basically done is looked at a lot of rural, low-crime states and then tried to project these results into urban areas," said Weil, of the Center to Prevent Handgun Violence. "You don't have a Dallas in this report, you don't have Miami, you don't have Los Angeles. You're basically looking at places where crime rates were already low." Weil also argued that Lott and Mustard had been refuted in a study by Dan Black and Daniel Nagin, at Carnegie Mellon University.

But Black and Nagin are far more circumspect. "We re-analyzed Lott and Mustard's data and found that what they were actually measuring was a downward trend in crime that had already started in these states before the shall-issue laws were passed," said Black. "We also found that their results were essentially being driven by Florida, which had a big drop in crime during this period. If you take the Florida data out, the overall effect disappears." Yet that at least suggests the law has had a positive effect in Florida—which is what proponents said in the first place.

Nor do Black and Nagin completely reject Lott and Mustard's conclusions. "There appears to be evidence of large effects on violent crimes, especially murders and rapes, that occur four or more years after adoption of the laws," they wrote. "This may be evidence that right-to-carry laws have a delayed effect on crime, or that other factors occurring after the passage of right-to-carry laws affect the crime rate." Their only dispute with Lott and Mustard is that the evidence shows "no consistent impact" on crime rates and that whatever impacts can be observed disappear when cities of more than 100,000 are included in the survey.

Black, however, is critical of the smear campaign against Lott and Mustard. "I think theirs is a very careful piece of work—much better than anything that's been done before," he says. "I resent people who claim that this study was not well done. Just because the conclusions aren't supported by the current data doesn't mean they can't be true."

So what is true? To the NRA it makes no difference. "We're not arguing from statistics," says Powers. "Our concern is people's basic right to protect themselves." Still, the NRA frequently cites the Florida experience in urging other states to follow suit. The argument has been successful. Thirty-one states now have some form of shall-issue law, up from nine in 1986.

At the very least, shall-issue laws appear to deter some crime, particularly in rural areas where community sanctions are firmly in place. Would such laws have the same effect in the anonymous and permissive atmosphere of the cities—or would they just lead to more killings over parking spaces? No one knows. In that respect, the Pennsylvania legislature probably acted wisely in 1989 when it exempted Philadelphia from a statewide shall-issue law.

What is doubtful is that statistics will settle anything. The debate over right-to-carry is too ideological for dispassionate evidence to reign. An example of how ludicrous it can become: When you describe carrying a concealed weapon as a civil-liberties issue, everyone switches sides.

Last August, the New York State Court of Appeals upheld the ruling of a trial judge that a high school security guard violated the constitutional rights of a student when he seized a loaded pistol the student was trying to carry into school. The trial judge was convinced that the student hid his weapon so carefully, the security guard could not possibly have seen it. Thus, at a stroke, the ultra-liberal New York court effectively legalized the carrying of concealed weapons, no shall-issue laws required.

Did gun-control groups call a press conference announcing background checks into the financial interests of the judges? Don't hold your breath.

"It sounds to me as if the judge made a reasonable determination," says Josh Sugarmann, director of the Violence Policy Center. "Public concern about gun violence has led to an increasing tendency to sacrifice real Fourth Amendment rights for imaginary Second Amendment rights. People are willing to tolerate anything from intrusion of school lockers to targeted searches because of their concerns about gun violence. We believe the focus should instead be on handguns themselves and limiting their availability."

In other words, you shouldn't be allowed to carry a concealed handgun. But if you do, the Violence Policy Center doesn't want the police to be able to arrest you.

This is one intellectual shoot-out that could use some better marksmen. ♦

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James Thurber and the "Thurber Man"

By Andrew Ferguson

Last month, the Library of America brought out another of its shiny black volumes, this one collecting the work of the humorist James Thurber. When I heard the news, I couldn't decide whether it represented an elevation of Thurber or a lowering of the Library of America. The Library, as book-lovers know, is our answer to the French Pléiade series, dedicated to preserving the work of the greatest American authors in stately, definitive editions. And so we've had the James brothers (Henry and William, not Jesse and Frank), Melville and Twain and Francis Parkman, the pre-Demi Moore Hawthorne, Cather to Cooper to Crane, all of them handsomely dressed for posterity and deserving no less. But James Thurber? A writer, as he put it, "of light pieces running from a thousand to two thousand words"? A humorist, a magazine writer, enshrined in our literary hall of fame?

"I preferred Thurber as a humorist to Mark Twain," said his friend and *New Yorker* colleague E.B. White. High praise, except that E.B. White probably preferred E.B. White as a humorist to Mark Twain, too. There is, needless to say, nothing in Thurber to match *Huckleberry Finn* or *Life on the Mississippi*. But the Library of America volume is merely the newest evidence that he survives, even flourishes, 35 years after his death in 1961. Last year saw the publication of Harrison Kinney's *James Thurber: His Life and Times*, which was more than 30 years in the writing. Perhaps Kinney was waiting for his editor to die: The finished book weighs in, unbelievably, at more than 1,200 pages. Thurber survives, too, as a going commercial concern; the Thurber Art Works Division of James Thurber Literary Properties, Inc., recently authorized a product line of clothing, china, and note cards. And of course he has been plumped by the academic inflation of the times—too many eggheads chasing too few authors. A dozen books and many more dissertations take his work as their subject. Kinney even mentions in passing—without, it seems to me, sufficient horror—a professor of Thurber Studies operating out of Ohio State University. The unambiguous benefit of the Library of America's *James Thurber: Writings and Drawings* is that now readers can decide, in the literary equivalent of one-stop shopping, whether James Thurber is really worth all this trouble.

AS A YOUNG MAN HE WAS HIGH-SPIRITED; BUT WITH CELEBRITY AND ACCLAIM AND AGE, HIS NATURAL EXUBERANCE CURDLED INTO WANTON CRUELTY.

A word of caution: Those who are new to Thurber, and those veterans wishing to revive their happy memories of his work, would do well to avoid Kinney's biography as they go along. It is a big sprawling mess of a book, often cleverly written and full of fascinating detail, and anything anyone would ever want to know about James Thurber can be found rolling around in there somewhere. Generous as Kinney is toward his subject, however, he still can't dilute the truth that Thurber—beloved by book-buyers and critics, encircled with interesting and devoted friends, cared for by a loving wife—became something of a monster. As a young man, he was high-spirited, eccentric, kind, given to wild clowning and practical jokes; but with celebrity and acclaim and, preeminently, the eye problems that rendered him blind by age 50, his natural exuberance curdled into wanton cruelty and ferocious resentments. Kinney guides us through one ugly scene after another—drunken brawls, serial infidelities, and the betrayal of friends.

To be fair, not all of these outbursts reflect badly on Thurber. He once threw a drink at Lillian Hellman, for instance. He made his last public scene by boozily seizing the microphone at a party for Noel Coward at Sardi's, screeching insults at the guest of honor. He collapsed that night and died a month later of an undetected brain tumor, which was blamed for the extraordinarily cruel behavior of his final years. But the Coward episode had many precedents stretching back to the 1930s. At his death most of his closest friends had long since been estranged.

The irrelevance of an artist's personal behavior to his public persona is an old story, of course—how else to explain all those sweet little old ladies who still worship Frank Sinatra? With a humorist, though, the disconnection is especially crucial, since the source of a funny-

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man's appeal is utterly dependent on the persona that carries through in his writing. The Thurber who appears in Kinney's book is not the Thurber of the collected works. That literary persona was so indelibly, so exquisitely created that he became known in time as the Thurber Man, and he is still with us, trembling on every page of Thurber's best writing.

James Thurber: Writings and Drawings
Library of America, $35.00

• • •

Harrison Kinney
James Thurber: His Life and Times
Henry Holt, $40.00

Thurber not only created the Thurber Man in words but drew him, too, in his inimitable cartoons, more than 500 of which are reprinted in the Library of America volume. The Thurber Man is dressed in a suit. His shoulders are round. He is small and balding, although sometimes seen with a hat pushed back from his brow. His chin and neck are of a piece, and his eyebrows are arched in perpetual alarm or confusion. He has the look of a man who has just awakened in a strange room. His lack of physical impressiveness is all the more impressive when he is pictured, as he often is, cowering next to a woman, usually his wife, who is invariably large and imposing. There is never any doubt who wears the pants in the family of the Thurber Man.

I am not (if you'll forgive a personal note) a visual sort, so I don't share the enthusiasm of many Thurber admirers for the drawings, and several sections of the new volume devoted to Thurber's cartoons—including such famous pieces as "The Last Flower" and "The War Between Men and Women"—will leave many readers wondering what all the fuss is about. The drawings work best where they serve merely to illustrate the stories. This they do supremely in Thurber's memoir *My Life and Hard Times*, first published in 1933, when the author was 39, and available, in one edition or another, ever since. It is the book that made his reputation, and the Library of America wisely reprints it in its entirety.

My Life and Hard Times is not so much a full-dress memoir as a series of episodes from Thurber's boyhood in Columbus, Ohio, immediately before and during the First World War. Columbus was later to become home to the Thurber Museum, Thurber Drive, the Thurber Square Apartments, even the Thurber Village Shopping Center, but in the days when it was merely home to the unknown Thurber family it had fewer claims to fame. "In the early years of the nineteenth century," Thurber wrote, "Columbus won out, as state capital, by only one vote over Lancaster, and ever since then has had the hallucination that it is being followed, a curious municipal state of mind which affects, in some way or other, all those who live there." You've seen the Thurber Man; Columbus is the Thurber City.

Against this shivery municipal backdrop, the Thurber family undergoes a series of quotidian alarms—mysterious footsteps half-heard in the night, a variety of uncooperative automobiles, the troubles surrounding a surly dog, a civic disruption caused by an imaginary flood. They would be quotidian, that is, if they happened to some family other than the Thurbers, or were remembered and embellished for the rest of us by someone less talented than their son James.

There's little point, and no percentage, in trying to analyze why *My Life* is so successful—so enduringly funny. This is true of most humor writing, very little of which endures in any case. "Humor can be dissected, as a frog can," wrote Thurber's friend White, "but the thing dies in the process and the innards are discouraging to any but the pure scientific mind." But the gifts Thurber displays in *My Life* are not so much the tricks of the humorist as the skills of a first-rate writer, of whatever kind, working at the top of his game. There is first of all his inventiveness, the ability to people the landscape with wild and clinging characters. His maternal grandmother, for example, "lived the latter years of her life in the horrible suspicion that electricity was dripping invisibly all over the house. It leaked, she contended, out of empty sockets if the wall switch had been left on. She would go around screwing bulbs, and if they lighted up she would hastily and fearfully turn off the wall switch and go back to her *Pearson's* or *Everybody's*, happy in the satisfaction that she had stopped not only a costly but a dangerous leakage."

One aunt lives in terror that a burglar will blow chloroform under her door through a straw while she sleeps; another heaves shoes down the hall each night to discourage intruders. Cousin Briggs "believed that he was likely to cease breathing when he was asleep. It was his feeling that if he were not awakened every hour during the night, he might die of suffocation." Thurber's mother "thought—or, rather, knew—that it was dangerous to drive an automobile without gasoline: it fried the valves, or something. 'Now don't you dare drive all over town without gasoline!' she would say to us when we started off."

Most of these vivid characters, except for Mother, are peripheral to the action of *My Life*. About the nuclear Thurber family, the brothers and the father and James himself, we learn very little, though they are always on stage. Father is the Thurber Man: "He was a tall,

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mildly nervous, peaceable gentleman, given to quiet pleasures, and eager that everything should run smoothly." But things never do. He is beset by the malicious antics of dogs and children, in-laws and washerwomen. Around him the family moves in irregular rhythms, which the author never bothers to explain. Untoward details are let drop at random. Sleeping arrangements, for example: In one chapter Father is asleep in the attic, while Mother and a brother are asleep in another room; in the next chapter he sleeps in the front room, Mother down the hall, the brother with James. Mother's obsession with astrology is mentioned only in passing, and when she takes her dog to a "mental healer," the reference is offhand. James appears taking a bath in one story at 2 a.m.; in another, making coffee shortly after midnight. But why the seeming disorder? A lesser writer—say, a mere humorist—would milk the irregularities for a full, and fleeting, belly laugh. Thurber doesn't, and his deadpan tone only deepens the humor and heightens the manic effect.

James Thurber

Kent Lemon

And the effect is comprehensive. The world of *My Life*—and, I suppose, the larger world, as Thurber wants his readers to understand it—is a queer place, where the odd and the normal are hard to distinguish, a place that fairly jumps with the potential for embarrassment and mortification. This is why the Thurber Man has that look of perpetual alarm. There is simply no way to predict what lurks around the next corner, and no reason to assume it won't be trouble. Thurber renders this world without apparent effort, as a fact of nature, in a plain prose as lovely as any American writer has given us. *My Life*, as all the critics have said, is a "classic of American humor," but it draws you in as only the best books do, funny or not, and it doesn't let go for a long time.

Thurber never again matched the sustained pleasures of *My Life and Hard Times*, as the new collection makes clear. As he himself hardened in bitterness, so did his attitude toward his work, and he began to talk grandly, in interviews and elsewhere, about "humor as an art form," and the pomposity showed. His great friend and editor, Harold Ross of the *New Yorker*, invented the adjective "writer-conscious" to describe writing that tips over from the plain and precise into the precious and pretty (like this). Much of Thurber's later writing was "writer-conscious" and, worse, not at all funny. But there were still flashes of delirious brilliance, and all of them are here: "The Secret Life of Walter Mitty" and "You Could Look It Up" and "The Catbird Seat." For all the dark talk of art, Thurber was at heart a journalist, a pro who hacked out copy for the magazines, and as such he must have published several million words, of which perhaps 300,000 are now preserved for the ages by Library of America. And of those, a good 50- or 60,000 are as fresh as the day they were first offered to the world. I think this is a very high percentage; I don't know another American magazine writer, 60 years on, who could touch it. And it's high enough, surely, to justify the Library's new collection, and maybe even a professor of Thurber Studies. (But just one.) ♦

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Books

CATHOLIC KILLERS

By Donald Lyons

England, 1603. The old queen was finally dead, and the new king was a sly, secretive Scot. Harassed and persecuted English Catholics had been forbidden to worship, obliged to shelter their proscribed priests in airless nooks called priest holes, compelled to subscribe publicly to Protestantism, menaced with confiscation of property and prosecution for treason. They were confident that good King James, with his Catholic wife and penchant for hunting on the estates of Catholic nobles, would relax the punitive regime of stern Elizabeth. They—especially high-spirited aristocrats like charismatic Robert Catesby and charming Everard Digby—looked to James as a potential bringer of "toleration" for Catholics and an enabler of glamorous careers, on the order of Essex or Raleigh, for frustrated bloods like themselves. But James disappointed. He proved more intent on making peace abroad with Spain, the recent hope of English Catholics, and on consolidating his Protestant base at home. Dashed hopes turned, as they have a habit of doing, to rash schemes.

Antonia Fraser's new book, *Faith and Treason*, deals with the upshot of Catholic frustration, the most infamous terrorist plot in English history. Some thirteen Catholics, mainly young noblemen from the Midlands, decided to blow up Parliament by laying gunpowder in the basement. And not just Parliament: They aimed to wipe out the entire Protestant establishment by choosing the opening day of Parliament, November 5, 1605, when the royal family—king, queen, two little princes—and the entire nobility would be in attendance.

The idea was then to institute a Catholic government, with James's nine-year-old daughter Elizabeth (absent from London) as puppet queen and a Catholic grandee, yet to be named, as lord protector. It was all sad, mad, bad nonsense, and, as such wild stuff will, it went spectacularly awry. A letter of mysterious origin warning a relative of one of the plotters not to attend the opening reached, on or about October 26, the all-powerful minister Salisbury, "the crafty statesman par excellence . . . who had masterminded among other things King James's accession to the British throne." Salisbury showed the letter to the king on November 1. The government had plenty of time to foil the grotesquely inept plot. In the wee hours of November 5, one Guido, né Guy, Fawkes, a bellicose and fanatical ruffian and a latecomer to the conspiracy, was found skulking around a cellar underneath Parliament; dud gunpowder lay about. Fawkes's arrest sent the ringleaders flying to their country estates, where they fondly expected to organize a desperate rising in their behalf. In remote Staffordshire—and quite unsupported by the local populace—four fiery conspirators died and others were wounded in a shootout with a government posse; they died with panache and piety, kissing crucifixes and images of the Virgin. In London, Attorney General Coke, at the King's explicit urging, began applying "the gentler tortures"—i.e., the rack, which stretched the suspect, and the manacles, which suspended him—to Fawkes. By November 7, he was confessing and implicating others. Soon the wounded conspirators joined him in the Tower. But the official taste for blood was far from slaked. James and Salisbury were determined to use the foiled plot as an occasion to rid England of the brains of its Catholic remnant, the Jesuits. On the pretext that the plotters had confessed their intentions to Jesuits and been absolved in advance, a ferocious priest hunt was instituted. Head Jesuit Father Henry Garnet and others were flushed from priest holes in late January.

On the last two days of the month, eight conspirators met the fate of traitors. Weak from torture, they were publicly hanged for a few minutes, then cut down alive to have their hearts ripped out and their bodies torn asunder. Some were penitent; some were defiant; all died resolutely Catholic. Some had duly confessed to the priests' foreknowledge, but Digby the charmer, who was best placed to know, maintained to the last that no Jesuit was privy to the plot. This of course did not stop the torturing of Garnet, his fellow Jesuits, and lay brother Nicholas Owen, the crippled and ingenious architect of unnumbered priest holes. Under the torture, Garnet admitted enough to give Coke grounds for an indictment of "misprision of treason." Coke led the prosecution at the show trial. The verdict was guilty. On May 3, Garnet was hanged; a suddenly still and merciful crowd demanded he be killed whilst hanging and spared consciousness during the rest. Triumphant James had his Jesuit blood. Who would have dreamt

Antonia Fraser
Faith and Treason: The Story of the Gunpowder Plot
Little, Brown, $23.95

Donald Lyons is theater critic of the Wall Street Journal.

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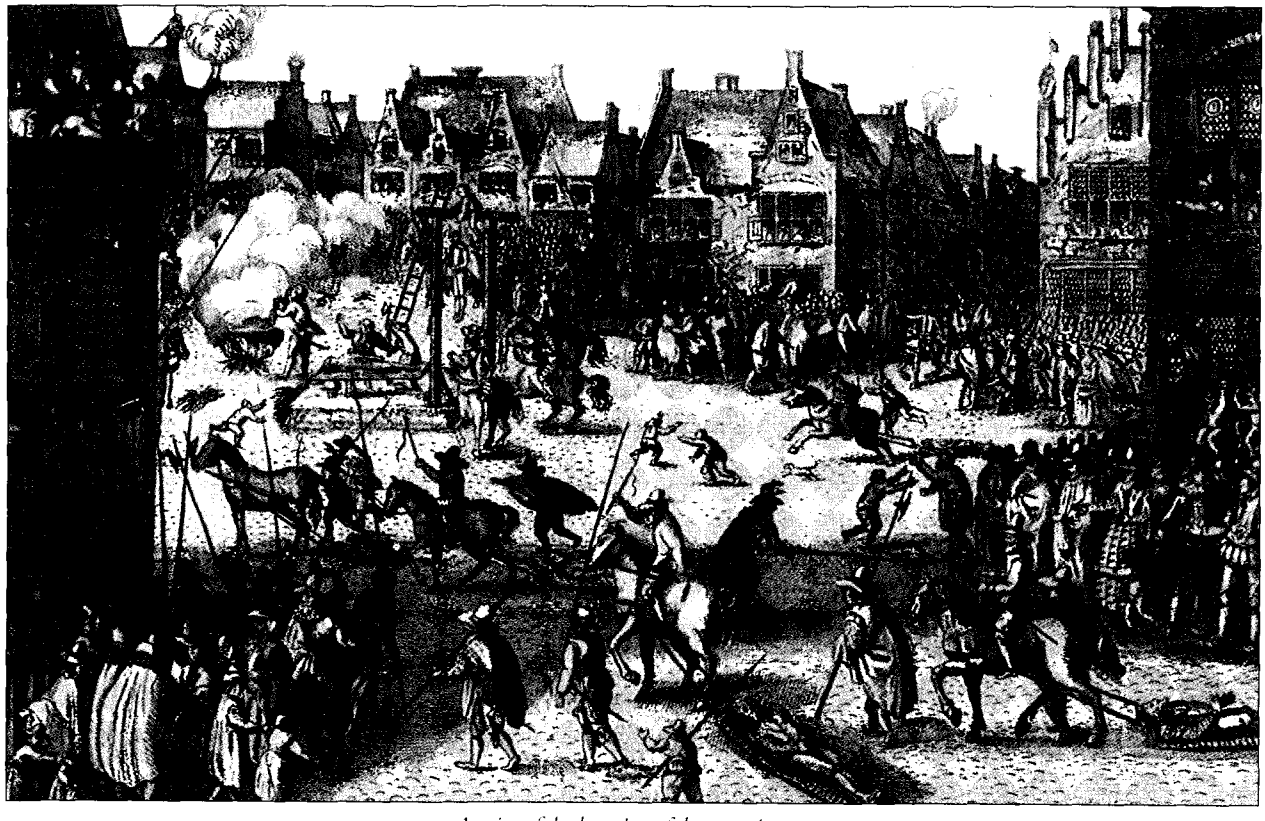
that James's eldest son would die of typhoid fever at the age of eighteen in 1612 and that his second son, then Charles I, would be publicly decapitated by a Puritan tyranny in 1649? The little Princess Elizabeth was to marry a German and become the ancestress of the present ruling house.

The idiotic and wicked plan resulted not in the emancipation but in the prolonged and intensified persecution of English Catholics. It was proposed in 1613 that Catholics be compelled to wear red hats (like the Jews of Rome) or particolored stockings (like clowns) to render them easier targets. The House of Commons rejected this, but it was some 200 years before most civil disabilities were removed from English Catholics. And, of course, the annual commemorative Guy Fawkes bonfires, complete with burnt effigies of the pope, have kept bigotry warm.

Antonia Fraser is best known for her sympathetic lives of Mary Queen of Scots, of various Stuart monarchs, and of Henry VIII's wives, and indeed her gift is less for narrative than for biography. She does a competent-enough job telling the story here (though it would perhaps take the Conrad of *Under Western Eyes* to do it justice) but her real interest is elsewhere. She manages to sketch in a comprehensive and fascinating background of Catholic life in the Midlands at the turn of the seventeenth century; she has a nice gossipy knack for clarifying the dense web of intermarriages that linked the Catholic gentry. She shows us husbands making public profession of Protestantism to maintain land and career, resourceful wives doing the daily work of keeping religion and family afloat, hotheaded scions. It was a world of intense, pervasive piety, with huddled masses, priests disguised as lords, scrupulously kept feast days, and pilgrimages to the healing waters of St. Winifred in Wales. Matriarchs like Anne Vaux and Eliza Roper, dowager of Harrowden, held it all together with a very English pluck and chipper efficiency, and some of these women were scarred by proximity to the conspirators. Fraser herself comes from a distinguished Catholic family, and her tribute to this twilight culture is heartfelt and touching.

But such is the glamour of this doomed Catholic aristocracy—mingling, as it were, elements of *Brideshead Revisited* and the French Resistance—and so repellent are sadistic cold fish like James and Coke that Fraser is tempted at moments to jettison her moral rudder. On the book's last page she cites Nelson Mandela explaining his indulgence in "sabotage" on the grounds that "fifty years of nonviolence had brought [my] people nothing but more repressive legislation, and fewer rights." These



A print of the hanging of the conspirators

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words, she says, could have been uttered by Robert Catesby. She seems not to see that, rather than reflecting Mandela's light upon Catesby and mitigating terror, they imbrue Mandela with some of Catesby's dark folly. The generous historian Clarendon called Cromwell "a brave bad man"; Fraser hesitates so to label her plotters and suggests we think of them as "brave, misguided men." No. Those who murder, or will the murder of, innocents may or may not be brave, may or may not be devout, but they are always bad. ♦

Ideas

My Sokal-ed Life

By Mark Miller

Imagine that you are referred to a doctor who was trained at a top-ranked medical school, one famous for its advanced medical thinking. Many of its faculty members subscribe to esoteric theories; some even argue for overturning the entire system of medicine as currently practiced. Few of them, though, have ever seen a patient, and many have nothing but contempt for those who have. One or two professors don't even have licenses to practice. And although all understand the scientific method, few are familiar with the tools, techniques, or procedures of the laboratory or operating theater. Would you entrust yourself to this guy's care?

In reality, of course, you wouldn't have to. Such a radical disconnect between teaching and practice is unthinkable at any reputable school of medicine—yet it is commonplace in the nation's elite schools of law. And nowhere is this disconnect more glaring than in the law journals. Publish or perish may be the rule throughout academia, but only in the field of law are student-edited journals the primary outlet for academic writing.

Mark Miller is assistant book editor of the Washington Times *and senior articles editor of the* Georgetown Law Journal.

On these journals, second- and third-year students are the sole gatekeepers. They ordinarily have absolute independence in deciding what articles are published, and they influence the final shape of what is published through extensive editing. These students—many of them younger than *Roe* v. *Wade*—decide what subjects and approaches are important enough to warrant space. Deans and faculty have no formal role, and they usually apply very little informal pressure. As a result, given the publication requirements for tenure, students are partly responsible for placing and keeping individuals on faculties.

The students, though, are in a bind. Postmodernism has made it ridiculously easy to cross the line between academic discourse and utter nonsense, as Alan Sokal's hoax showed earlier this year. Sokal, it will be remembered, is the New York University physicist who planted his elbow firmly in the ribs of the academic establishment when he published "Transgressing the Boundaries: Toward a Transformative Hermeneutics of Quantum Gravity" in the peer-reviewed journal *Social Text*. Among other outrageous claims, the article argued that gravity—indeed, physical reality itself—was nothing more than a social and linguistic construct, a product of dominant ideologies masquerading as absolute truth.

With that incident in mind, it is sometimes hard for law-journal editors to know anymore whether somebody might be out to put one over on *us*. A look at some of the articles that have come in, on law school letterhead, over the transom at the *Georgetown Law Journal* this year forces one to consider the possibility:

¶ "Disinterring the Good and Bad Immigrant: A Deconstruction of the State Court Interpreter Laws for Non-English Speaking Criminal Defendants." Court-supplied interpreters for non-English-speaking criminal defendants aren't the generous accommodation to the due process rights of immigrants we all imagine them to be. They're actually racist and therefore operate to the detriment of those defendants.

¶ "The Jurisprudence of Yogi Berra." The aphorisms of the baseball great "reveal a surprising amount about a variety of aspects of American law."

¶ "Law as a Eurocentric Exercise." European culture is materialistic. Materialism is bad. European culture is bad. Therefore, materialistic culture is European.

¶ "The Joint Rate Return Structure." The Internal Revenue Code is evil because it is founded upon hidden gender-biased assumptions intended to keep women second-class citizens, in "shocking and extreme manners." (We receive lots of papers making arguments similar to this.)

¶ "Legal Tales from Gilligan's Island." The portrayal of lawyers in the popular culture traces its origin to *Gilligan's Island*. ("The 1960s television show *Gilligan's Island* contains numerous references to law, most of which remain unrecognized to this day.") Did the author really need 168 pages and 300-plus footnotes, to prove his point?

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Alan Sokal, eat your heart out.

What all of these papers have in common, other than "subversive" intent (to which most of the authors would readily admit), is a desire to break new ground by applying theoretical structure X to problem Y. No juxtaposition is too improbable—in fact, the more improbable the better. What light can Raskolnikov shed on Title VII? Do we need affirmative action for free speech rights? What does Native American tribal justice tell us about the imperialist, Eurocentric history of the common-law doctrine of adverse possession?

Not only does this approach keep usefulness and practical reality at arm's length, it is also more formulaic—and therefore less effectively subversive—than its authors suppose. The truly subversive effect this kind of writing can have, however, is to lure students away from the hard-headed rationality that used to characterize legal study—and that is certain to be their best friend in legal practice, where most are heading.

After seven months on the front lines at a law journal, I have come to believe that students and their teachers are part of a vicious circle which they do not care to change. The teachers pursue their own theoretical interests, which often have little to do with the workaday legal profession. Their enthusiasms tend to become their students' enthusiasms. The students publish the papers that seem consistent with what they hear from their professors. Professors understand that they need to grab the attention of student editors in order to secure coveted publication slots, so more of the same gets written, and on and on.

Now, it is true that a top-ranked law journal receives something like 2,000 unsolicited articles a year, and many of them are quite interesting, including some that take a theoretical approach. The competition for the most interesting ones is stiff. Many of the articles even shed light on legal doctrines relevant to lawyers' work in the real world. The point is, though, that the narrower and more "doctrinal" the paper—and therefore the more useful to practitioners—the less resonance it is likely to have for student editors, who are relatively inexperienced with real legal problems. It is difficult for students to recognize what arguments are innovative and valuable. Easier, then, to choose the piece with a fashionable axe to grind.

In the end, Alan Sokal's hoax could be just what the doctor ordered for the student-edited law journals. If Sokal succeeds in making student editors more cautious about publishing hermeneutic challenges to the socially constructed, gender-biased assumptions of 28 U.S.C. 1291, he will have done legal pedagogy a great service. ♦

Michael Ramirez

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Former presidential adviser George Stephanopoulos to join the faculty of Columbia University.

—*News item*

Parody

The following is a transcript from the third session of the Columbia College class Western Civilization 101, led by Professor G. Stephanopoulos.

STEPHANOPOULOS: Good morning, class. I hope all of you did the reading because the Roman Empire is a very important period in history. I'll be making a brief opening statement and then I'll open up the class for questions.

Now many of you may have read that the Emperor Caligula used the Praetorian Guard to procure slave girls whom he then dismembered and ate. I'd like to say straight out that these are very old charges which have been gone over again and again, and nobody has ever been able to prove any wrongdoing on the part of Caligula—or Mrs. Caligula.

At the time, Mr. and Mrs. Caligula and their staff turned over nearly 4,000 scrolls of Imperial documents to investigators from the Roman Senate, and they never came up with any solid evidence. As a matter of fact, the girls in question were not even slaves. They were members of the Romanocorps Program, a voluntary service project that recruited young people to do things like scrape the sweat off gouty consuls, and in exchange they were granted two years' tuition at Cicero U. There was a provision in the law which granted their families a free villa if the girls allowed themselves to be eaten by the emperor, but it was strictly voluntary.

It saddens me to see a historian of the stature of Edward Gibbon allow himself to be manipulated by operatives who have always been hostile to Caligula, and who are out to destroy him because they have no positive agenda of their own. As you know, I hate to mention the fact that I once worked in the White House and was considered the finest political mind of the age, but let me relate one little Washington anecdote: On nights when the First Lady was out of town, the President would invite some of his top advisers down to the White House screening room, and we'd all watch the movie *Caligula*, which the President feels is one of the masterworks in the Bob Guccione oeuvre. I remember that once when the lights came up after a screening of the movie there were tears in the President's eyes—this was during a tough time in the presidency. The President looked at me, put his hand on my shoulder, and said, "I wish I had been president during the Roman Empire." But I warned him that even in those days there were vipers and critics. Most of the Roman emperors were men of spotless character and tremendous courage—who built bridges to the first, second, third, and fourth centuries respectively—but you'd never know it to look at the Roman media.

STUDENT: Now, you say that the emperors had spotless character, but I once heard that the emperor Nero fiddled—

STEPHANOPOULOS: That story that Nero fiddled while Rome burned is a total lie. Nero's lawyers conducted a thorough investigation and never found any evidence that he was fiddling, and if he was, it was only to call the fire department. And anyway, if Rome burned, why is the Coliseum still standing? The fact is, Rome never burned. It was just a hot day. If you go through the history books, you'll find many leaders who are unfairly criticized by small-minded commentators. It happens over and over again.

STUDENT: But surely somebody like Britain's Henry VIII—

STEPHANOPOULOS: In fact, Henry VIII had only one wife his entire life, to whom he was completely faithful . . .

(Transcript breaks off)

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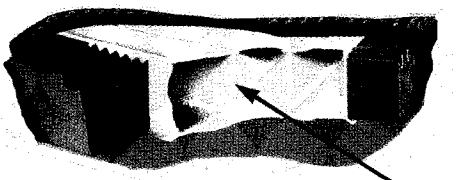

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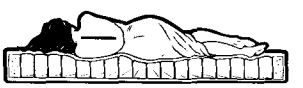

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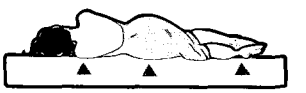

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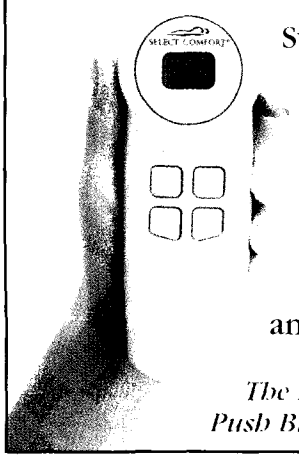

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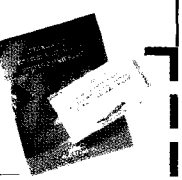

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